

MISSISSIPPI LAW JOURNAL



PROCEEDINGS MISSISSIPPI STATE BAR

SIXTY-FIRST ANNUAL MEETING

October 1966

VOLUME XXXVII

NUMBER 4

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Mississippi Law Journal

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MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS
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ORMA R. SMITH
Retiring President of Mississippi State Bar

PROCEEDINGS OF THE SIXTY-FIRST ANNUAL MEETING
OF THE

Mississippi State Bar

Held at Jackson, Mississippi, on June 16-18, 1966

The First General Assembly of the Mississippi State Bar was called to order in the Hotel Heidelberg in Jackson, Mississippi, at 9:00 a.m., June 17, 1966, by Mr. Orma R. Smith, President of the Mississippi State Bar.

The invocation was delivered by The Most Reverend Joseph B. Brunini of Jackson.

Separate addresses of welcome were delivered by Mr. Rufus Creekmore, Mr. George Sturm, and Mayor Allen C. Thompson, all of Jackson, and were responded to by President Smith.

President Smith then delivered the following report.

REPORT OF THE PRESIDENT

Orma R. Smith

The time has arrived for me to give you an accounting of my stewardship as President of the Mississippi State Bar. I have immensely enjoyed my work this year. It has been time-consuming and pressing, but certainly enjoyable and rewarding.

It has been said that "All work and no play makes Jack a dull boy." I have tried to keep from getting dull. During the year, Margaret and I had the pleasure of attending the annual meetings of the Alabama Bar Association, Louisiana State Bar, and the Tennessee Bar Association. At each of these we were entertained lavishly and accorded the gracious hospitality for which they are noted. It was our privilege to attend the annual and mid-year meetings of the American Bar Association, where we participated in the activities of the National Conference of Bar Presidents. We also enjoyed the Judicial Conference for the Fifth Circuit which was held this year in San Antonio, Texas. There were occasions when we could enjoy good fellowship and relax. The remainder of the year, for the most part, was spent in attending to the affairs of our Association.

At the beginning of the year, I realized I lived so far from Jackson that I felt I could not commute as often as necessary. There would be many problems and questions to arise which would require the attention of my office. I prevailed upon my good friend, Honorable George Hewes of the Jackson Bar, to act as my personal representative in Jackson

and to handle these matters for me. Many of these were troublesome, but were handled by him with finesse and to the satisfaction of all. I want to thank him for his help.

I was blessed during the year with a strong, faithful, and understanding Vice-President who has stood by my side and helped me in many ways. Without John Armstrong's help I am sure I would have been stranded on many occasions. I appreciate his assistance and thank him for being so faithful to me.

The Board of Commissioners has been composed of dedicated and able lawyers who have managed the affairs of the Bar with intelligence and understanding, having at all times the welfare of the Bar and its members as the prime objective. They have been faithful and prompt in the performance of their duties and regular in attendance. I shall always remember them with affection as loyal friends.

Mrs. Alice Nevels, Mrs. Lillian Sadler, and Mrs. Janice Ammann have rendered prompt and efficient services in the office work of the Bar. The business of the Bar has been conducted efficiently and with dispatch. I thank each of them for their support.

Since my office is so far removed from the Jackson office, I have found it necessary to have my personal secretary, Mrs. Raymond Wadkins, perform a large part of the secretarial work. This work has required her to stay at the office many times after office hours and on many occasions to devote part of her weekend free time to the job. She has done this with such cheerfulness and graciousness that I want to record my appreciation for her work in this report.

There have been thirty-four committees actively engaged in Bar activities during the year. More than three hundred and seventy members of the Bar have served on these committees. They have been dedicated to the task assigned and have rendered valuable assistance to the Bar. There is not enough time allotted for the presentation of my report to permit me to give you the details of committee work. Many of these committees achieved remarkable results, and you should be amazed at their accomplishments.

There is a bright future for the Mississippi State Bar. Its members are anxious to work in order to advance the interest of the organized bar, thereby improving the stature of the Mississippi lawyer. I have found eagerness to be the rule rather than the exception. With such a spirit of cooperation, success is certain to be the result.

There is, however, a great need for closer contact between the State Bar and the local bars. This contact has not been possible in the past because the machinery for its accomplishment has not been established and maintained. This must be done by personnel employed for that purpose. It is impossible for your president or the officers of the

Conference of Local Bar Associations to perform this task. The president and officers of the Conference are lawyers who must devote most of their time to their practice. They cannot maintain the line of communication. It must be maintained by office personnel. To have an active Bar and one that will mean something to its members, this is essential.

We have many well-organized and active local bar associations that perform a valuable service to their members. It was my pleasure to visit several of them during the year and to observe their accomplishments. Close coordination of the activities of the State Bar with those of the local bars will bring a rich harvest to the entire membership.

CONTINUING LEGAL EDUCATION

Several years ago the Mississippi State Bar inaugurated a program of Continuing Legal Education. For several years the program was promoted by a committee of the Bar. This program has the capacity for providing unlimited benefits to the members of our profession. Through it we can continue education on legal subjects, keep ourselves informed on current developments, improve our technique, and obtain a greater degree of efficiency in our practice.

For the past two years this program has been undertaken through a joint program with the Law School of the University of Mississippi. Because of lack of continuity, the program could not serve our membership effectively.

The Board of Commissioners has recommended that the program be transferred to the office of the Executive Director, where it can be pursued with the counsel and assistance of the several committees of the Bar. It is anticipated that this can be done in a manner so as to reach a larger segment of the members of our association.

I recommend and strenuously urge that emphasis be given to this program, because I am of the opinion that it will be well received.

LEGAL SERVICES FOR THE INDIGENT

Since the decisions in *Gideon*,¹ *Escobedo*,² and *Harvey*,³ it has been apparent to all that the indigent prisoner must be furnished competent counsel at all stages of the case. In *Miranda*,⁴ the United States Supreme Court clarified *Escobedo's* general statement of the law. The Court said that before questioning can begin an arrested person must be told that he has the right to remain silent; that the fifth amendment protects him

¹*Gideon v. Wainwright*, 372 U.S. 335 (1963).

²*Escobedo v. Illinois*, 378 U.S. 478 (1964).

³*Harvey v. Mississippi*, 340 F. 2d 263 (5th Cir. 1965).

⁴*Miranda v. Arizona*, 86 Sup. Ct. 1602 (1966).

against self-incrimination; that he is entitled to a lawyer; and that if he is indigent, the attorney will be provided for him.

Harvey makes it clear, in the Fifth Circuit at least, that the rule extends to some misdemeanors.

There is a rush to the courthouse by indigent prisoners who are now confined in the penitentiaries of the country for post-conviction remedies. Every state has its problems in order to cope with this surge of litigation. It reaches mammoth proportions in many states. In Florida, for example, there have been more than five thousand petitions. Other states are having a similar flow of cases. Mississippi does not have the machinery to deal with these petitions. Often the petition consists of a letter addressed to the supreme court, in which the prisoner claims that he is being illegally detained and has been deprived of his constitutional rights in the trial of his case. The supreme court is an appellate court and such matters cannot be handled there; nor does it have the machinery to do so. This creates a problem for the courts to solve.

The same thing happens in the trial courts. They have a deluge of these cases, but no procedure to handle or dispose of them. The state does not have statutes dealing with the question which provide an answer. The cases are awkwardly handled and in the final analysis become problems of the members of the Bar.

The organized bar is not overlooked by the indigent prisoner seeking post-conviction remedies. I have had to deal with a number of these cases during the year. I found myself in the position of the members of the judiciary. I had no means at hand to deal with these matters.

A few days ago I received a letter from an inmate of a nursing home, complaining he was illegally detained while his estate was being squandered. Just before preparing this report I received a letter from an inmate at Whitfield, in which she complained she was not provided a hearing in the courts on the question of her sanity; that she was illegally detained; that her civil and human rights had been violated; and that she wanted her case to go to the United States Supreme Court if the Mississippi Supreme Court did not agree to release her. She wanted me to secure a lawyer to represent her. While the two instances involve civil rights in civil matters rather than criminal affairs, they point up the need of some form of a legal aid forum to handle such cases.

It is apparent to every reasonable person that it is unfair for the public to visit this great responsibility upon the lawyers, whose stock in trade is their time, and only one segment of society. And it is also apparent that the problem is one of great proportions.

We have had two committees working in this field during the year: (1) the Public Defender Committee; and (2) the Committee on Legal

Aid to the Poor. These two problems—one, legal aid to the indigent prisoner; and the other, legal aid to the poor—have jurisdiction of the problems sufficient to make a study of them and arrive at a solution that will be a credit to the Bar and to the members of the legal profession.

It is not difficult to see what the future has in store for the Mississippi lawyer if a system of Public Defender is not established and maintained with sufficient help to do the job. In the past, appointments have been made at the circuit court level and only for indigent prisoners charged with a capital case or some other felony. The rule now requires appointments in justice of the peace courts; and, of course, as I have said on other occasions, this court is ill-equipped to perform this or any other judicial duty. The responsibility, therefore, rests with the lawyers. If convictions are to be sustained and criminals punished for their crimes against society, the bar must see that the indigent prisoner receives due process. These cases will become so numerous the burden cannot be borne by the bar. It is the responsibility of the public; therefore, the public must bear the expense and provide the means of compliance with the rule.

There is another feature of the indigent problem that cannot be solved so easily, and that is the furnishing of legal services of a civil nature for the indigent person. The United States Government, through the Office of Economic Opportunity, is determined to establish through the country a system by which the indigent person can be furnished with free legal services. Just how this is to be done without the violation of ethics of our profession, I am at a loss to understand. The American Bar Association has a committee working on a revision of the Canons of Ethics. It is not now known how these matters will be treated.

It is my humble opinion that in one way or the other large grants are going to be made in our state by the OEO to foster and carry out a program of legal aid to the poor. The only thing uncertain about the matter is the identity of those who will be in control of the project. If the Mississippi State Bar does not take a forward step and study this problem and come up with a reasonable solution which enables the bar, either on a state or local level, to supervise the operation of this program, we are going to find other groups taking over and running the project, staffed with lawyers brought into Mississippi for that purpose. The committee has been working on this question. They have made a detailed study of it. I urge the incoming president to accelerate the Bar's activities in this field.

LEGISLATIVE ACTION

The Legislature has just adjourned. I have not been able to deter-

mine the exact status of all of our legislative program.

A Public Defender Bill was prepared and introduced in the Senate, where it was passed by a large majority. In the House, the committee handling the bill held two hearings on it. A large number of our members attended in support of the bill. It was favorably received, but due to the many complex situations which were encountered, time would not permit its consideration at the session. The committee believes that a bill can be drawn which will be generally accepted throughout the state for submission to the special session in the fall, if there is one called by the Governor and if he will submit the matter to the special session for consideration.

I am optimistic over the final outcome of this legislation, for I believe everyone is in accord that the members of the legal profession cannot carry this public burden without the aid of public funds. It appears that a Public Defender system will be the only means through which this problem can be solved.

The Legislature adopted a Uniform Commercial Code, and thereby Mississippi became the forty-fifth state to adopt the Code. Its enactment has long been recommended by the Mississippi State Bar. This year the Mississippi Economic Council, the Mississippi Bankers' Association, the Mississippi Manufacturers Association, and others joined the Bar in its support of the measure. Through the assistance of these fine organizations and our own Uniform Commercial Code Committee, the matter was submitted to the Legislature in such a manner as to bring out the desirable qualities of this act, with the result that it is now on the statute books.

Through a sub-committee of the Study Committee of the Bar, the Legislature was asked to amend the tax laws of the state so as to protect an innocent purchaser for value without notice from the lien of taxes resulting in chargebacks on disallowed homestead exemptions. This equitable proposal received the approval of the Legislature and is now a part of the laws of the state.

I understand that the bill for the erection of a Justice Department Building to house the Supreme Court, the Attorney General's staff, and the Bar Association's office was not passed by the Legislature. This is a very important matter and we should continue our efforts to secure passage of this legislation. The committees of the Bar working with this project have been very diligent, and I believe the ground work has been laid for this bill to be passed at a subsequent session of the Legislature.

We were successful in our efforts to obtain an increase in compensation for the members of the judiciary. A very capable committee of

the Bar worked on this project for several years and was instrumental in bringing about this adjustment.

There were many other important and worthwhile Bar sponsored bills that fell by the wayside in the press for adjournment in the Legislature. We must not become discouraged, but we must press forward at the next session for the passage of the bills which have been recommended by the Study Committee and approved by the Bar.

One bill that I want to mention in my report is the bill to create a judicial commission. This has been recommended on several occasions by the Bar and by the Supreme Court to the Legislature. The act, as introduced, creates a "Mississippi Judiciary Commission" to be composed of three members: one, a layman to serve a term of three years, to be appointed by the Governor; another, an active practitioner to serve a term of four years and to be selected by the Mississippi State Bar; and the third, an active practitioner to serve a term of five years to be appointed by the Chief Justice of the Supreme Court—all to be confirmed by the Senate. The bill provides that the commission investigate, report, and make recommendations as to a number of things, among which are: (a) the administration, structure, and personnel of the courts and problems incident thereto; (b) enlargement and location of rule making power; (c) improvements in methods of selection of the judiciary; and (d) evaluation of the laws pertaining to jury service, selection, and qualification. The present system of amending by piecemeal laws relating to these items does not seem to be satisfactory. With an appropriation of an amount of money sufficient to finance the investigation and study of these problems, the commission can make its report to the Legislature with recommendations in a package of bills designed to correct and modernize our courts and practice at one time.

SECRETARY-EXECUTIVE DIRECTOR

During the year I appointed a special committee of the Board of Commissioners to interview and recommend the employment of some qualified individual as Secretary-Executive Director of the Mississippi State Bar to succeed Mrs. Nevels on her retirement. This committee, working with the Long-Range Planning Committee, received applications from more than twenty-five persons for the position. After several months of hard and tedious work, the committees reported to the Board their recommendation which will be passed on to the new Board elected at the close of the convention for its consideration.

Increased Bar activities make it imperative for the Bar to have an increased budget in order to serve properly its members. A proposal will be made at this convention for the Mississippi State Bar to request the Legislature to increase the dues from \$20.00 per year to \$40.00 per year,

as it is anticipated that such an increase is necessary. When we consider that the medical doctors for a number of years have found it necessary to pay \$50.00 per year to their state association and the dentists \$44.00 per year, it is apparent that the lawyers will have to increase their dues, in order to keep abreast.

CONCLUSION

I extend my heartfelt appreciation to those who have arranged the fine program for this meeting. The Program Committee, under the chairmanship of Judge N. S. "Soggy" Sweat, Jr., of Corinth, with Honorable Robert G. Nichols, Jr., of Jackson as co-chairman, has arranged a most entertaining and informative program, including many delightful social events. A special committee of the Hinds County Bar chaired by Honorable Joe H. Daniel and with Kenneth I. Franks as co-chairman has worked diligently and has devoted much time to working out the details of the program. The ladies' program is outstanding and has been arranged by the Ladies Activities Committee of the Hinds County Lawyers' Wives Auxiliary, of which Mrs. John T. Kabbes is the chairman and Mrs. Homer Lee Howie is the co-chairman. They have been very kind and gracious indeed in arranging the ladies' part of our program.

If my law partner and son, Sammy, and our associate, Donald Ray Downs, had not carried for me the larger part of my work load during the year, it would have been almost impossible for me to have performed the duties of my office. I will be forever grateful to them for their kindness, consideration, and thoughtfulness.

My wife, Margaret, has been of invaluable assistance to me throughout the year. She has worked untiringly at my side. I want to pay this tribute to her devotion and willingness to help me serve you, the members of the Mississippi State Bar.

Again, permit me to say that you have honored me by allowing me to serve as President of the Mississippi State Bar. I extend to each of you my deepest appreciation and heartfelt thanks for this honor.

President Smith then introduced Mr. N. S. Sweat, Jr., of Corinth, who moderated a panel discussion of the topic "Recent Developments in the Law." Mr. Sweat introduced as the first speaker, Mr. W. N. Ethridge, Jr., Chief Justice of the Supreme Court of Mississippi, who delivered the following address.

IMPROVING THE MACHINERY OF JUSTICE: A CHALLENGE TO THE BAR

W. N. Ethridge, Jr.

For the past fifty years the Mississippi State Bar has recommended

various needed improvements in Mississippi's judicial system, including a unified court plan, vesting the rule-making power in the Supreme Court, an adequate system of pre-trial discovery, pre-trial conferences, and improved court administration. The Bar has made advances in judicial compensation and retirement. But unfortunately it has made no real progress in other areas of the machinery of justice. I say this with appreciation for the dedicated efforts of many leaders in the Mississippi State Bar. But the fact is that the Bar has actually accomplished very little in this respect. Yet many of the other states have made large strides in court administration and procedures.

Why has the Bar been ineffectual in judicial reform? Many factors account for this. The demands of an active law practice tend to concentrate one's attention on making a living. Disinterest by many members of the profession exists. Public relations between the Bar and the Legislature have always been a problem, and in past years some of the opponents of proposed legislation have been lawyer-legislators. With a new generation, this is changing, but still the stigma of a bill being a "lawyer's bill" raises obstacles. There are many illustrations of obstructive ingenuity. First, is the assertion, "It works, doesn't it?", ignoring the obvious fact that it is not working as well as it does in many other jurisdictions. Then there is the evangelical appeal to stop thinking about our troubles. It's like the old time religion, which was good enough for father, and good enough for me. If these delaying tactics fail, the opponents of any change in court procedures, organization, or machinery will seek the appointment of a commission to report at some distant date after taking volumes of unnecessary testimony about conditions everyone knows. Yet in Mississippi we have not even gotten to the stage of appointment of a commission to investigate. The 1966 Legislature did not report out of committee the bar's proposal to create a temporary judiciary commission.

The Mississippi Constitution is supposed to create three separate branches of government, but in the government of this state the Judiciary Department has been considered a minor agency of the state, performing necessary but relatively unimportant functions. The Legislature and the Executive Department predominate in prestige, protocol, and the actual exercise of delegated powers. Accordingly, when the Bar and the Supreme Court propose to create a Judicial Council, the Legislature ignores the proposal. When the Bar urges a salary increase for judges, it takes extreme efforts by a strong Legislative Committee of the Bar to get a grudging action by the Legislature on the last day of the session. Many fine Bar recommendations to improve procedural and substantive law do not even get out of committee. These details are only symptoms of the fragmentation, inadequacies, and lack of prestige of

the Judiciary Department of the state. It is essential that the Bar, the Judiciary, and the public, insist upon strengthening the Judicial Branch of government. This can be done by making it function more efficiently and in accord with modern principles of judicial administration.

These are the negative factors, but I wish to accentuate the positive. Today as never before there is an increased awareness of the need to study and improve our judicial machinery. Within the past few years, the State Bar has recommended but has not implemented far-reaching improvements. There is a ferment and willingness to consider ways and means of improving court procedures and administration, not only among the junior bar, but also among the more experienced and sometimes blasé lawyers.

My premises are that there is a great need to improve our system of pleading, practice, and procedure, and to initiate principles of sound business administration in the courts. In candor, these are long overdue in Mississippi. You all know the cautious lawyer who draws his pleadings in such a way that when he comes to trial he will have freedom of action with no issue closed. Without such caution and without platitudes, I propose four specific, major improvements in the administration of justice in Mississippi. They should be in the form of amendments to the judiciary articles of the state Constitution. With enthusiasm, hard work, and a broad public information program to get the support of laymen, they can be accomplished.

I. RULE-MAKING BY THE COURTS

The goal of all reform of judicial administration is the prompt and just disposition of cases on the merits, both at the trial and appellate levels. The most important single device for achieving this objective is a simplified, reasonably flexible procedural system. Without it, other judicial reforms in all likelihood will flounder in the bog of procedural complexity. Practice and procedure in Mississippi trial courts have not had any development, with minor exceptions, since 1924. They are comparatively slow, antiquated, and undeveloped. The state has not adopted any of the modern techniques for clarifying issues and simplifying pleadings prior to trial, such as pre-trial discovery and conferences.

Historically, the power to make rules of procedure in English and American courts was vested in the courts themselves. But in the first half of the nineteenth century, in practically every state, the courts became subject to some degree of legislative control over their procedures. Yet the legislative codes, designed to replace common-law procedures, did not free the courts of their bondage to inflexible procedure.

There are compelling reasons for the return of rule-making power to the courts. Legislators appear to find it impossible to leave any-

thing to the discretion of courts. Codes are therefore detailed and profuse. Legislative sessions are held at relatively long intervals. Procedural reform is relegated to low priority. Legislatures lack the expertise born of daily contact with procedural problems, and legislative codes have all the rigidity of ordinary statutes. Needed changes must await the ponderous workings of legislative machinery. Hence procedures in Mississippi trial courts have been changed and patched like an old-fashioned quilt.

Although the courts are not infallible, they are best able to shape procedure to meet the needs of modern litigation. They see it in the light of "live" litigation, and are able realistically to determine whether particular rules promote rather than inhibit decisions on the merits. The necessity for flexibility and a large measure of judicial discretion in the application of procedural rules, a concept rejected by legislatures, is recognized by the courts. The choice is between an inevitably rigid, over-detailed code which stifles the administration of justice, and a simplified, flexible body of judicial rules consciously designed to promote prompt disposition of cases on their merits.

The rule-making power should be returned to the courts, by a constitutional amendment vesting in the Supreme Court the power to make rules of practice and procedure for the judicial system. The highest court of the state is, I think, in the best position to evaluate procedural needs of the whole system, and is best able to call upon expert assistance, and to coordinate with an advisory committee of the Bar in research, consultation, drafting, and the public relations activities essential to effective rule-making.

In 1962 the American Bar Association approved a draft of a Model State Judicial Article. Section 9 is short and adequate. It covers rules of practice and procedure, and rules of evidence, considering that they are procedural and are conducive to the effective administration of justice in the courts. The proposed constitutional amendment would provide:

Rule Making Power. The Supreme Court shall have the power to prescribe rules governing appellate jurisdiction, rules of practice and procedure, and rules of evidence, for the judicial system. The Supreme Court shall, by rule, govern admission to the bar and the discipline of members of the bar.

The Mississippi State Bar has recommended several times the need for a grant of power to the Supreme Court of the rule-making power: in 1918, 1943, 1944, 1947, 1948, and 1949. The proposed amendment would accomplish that.

The return of this power to the judiciary would permit the Court,

operating with the assistance of an advisory committee of the trial bench and bar, to develop rules pertaining to the taking and use of depositions before and in pending actions, the use of written interrogatories, the production of documents and things for inspection and copying, requests for physical and mental examination of parties, requests for admissions, pretrial conferences, and liberal provisions for joinder of parties and actions.

II. SOUND BUSINESS ADMINISTRATION IN THE COURTS

For the biennium of 1966-68, Mississippi will spend \$2,800,635 for its judicial system. This figure does not include the considerable costs of operating circuit and chancery clerks' offices in the counties. This is big business, and one would think that the state would have organized thoroughly under some centralized authority and competent business direction the nonjudicial business of the courts. This includes clerical and stenographic forces, adequate management of the courts' non-judicial business, and the responsibility in the courts to make compilations of reliable and intelligently organized statistics concerning the administration of justice. But this is not the case. The main reason for this failure to operate the business aspects of the courts on an efficient basis arises from an almost wholly decentralized administration of the courts' business, county by county.

The principles of judicial administration find their origin in sound business administration. First, judges should be assigned where there is judicial work to do. It is bad business administration to have some judges over-worked, while others sit by half-idle. Judges, if they are to do their best work, should be assigned to the type of judicial business in which they excel. Second is the principle of fair division of work. Mississippi is perhaps the only state in the Union where there are no judicial statistics concerning the work of the courts. The judiciary committees of the Legislature are aware of the need of redistricting trial courts. Some of the members of those committees have advised me that they have no facts upon which to make an intelligent redistricting, which is now done on a "catch-as-catch-can" basis.

For the past three decades there has been a trend toward creating administrative officers of the courts. The National Conference of Commissioners on Uniform State Laws, with the cooperation of the Section of Judicial Administration of the American Bar Association, has drafted a Model Act to Provide for an Administrator for the State Courts. It would create an Office of Administrator of Courts, with an administrative director appointed by, and under the supervision and direction of the Supreme Court. The administrator would have such assistants as are necessary. He would formulate and submit to the Court and Legis-

lature recommendations for the improvement of the judicial system; examine the administrative and business methods and systems employed in the offices of the clerks; collect and compile statistical data on judicial work of the courts; examine the state of dockets and practices and procedures; prepare and submit budget estimates of state appropriations necessary for operation of the judicial branch; serve as a central purchasing agency for the judicial system; collect and compile statistical data; cooperate and consult with the clerks of the courts; and publish and prepare an annual report of the work of the courts and on the activities of the administrative office of the courts.

Adoption of the Act To Provide for an Administrator for the State Courts would accomplish many worthwhile objectives. It would save the state and the taxpayers considerable money. More importantly, a judicial system cannot function effectively without "live" statistics any more than a business could be run without current reports from its accounting department. Such "live" statistics, assembled in weekly, quarterly, and annual reports, both for the use of the judges themselves, the Legislature, and information of the public, are an essential of orderly judicial administration.

The Model Act presupposes the existence of a power, statutory or constitutional, in the Supreme Court to exercise administrative authority over the judicial system. The Model State Judicial Article places this responsibility in the Supreme Court, acting through the Chief Justice, with the power to assign judges to sit in any court of the state when, from the statistical studies of facts made available through the administrator of the state courts, he deems such assignment necessary to aid the prompt disposition of judicial business. It provides (section 8, paragraph 2):

Head of Administration Office of the Courts. The Chief Justice of the State shall be the executive head of the judicial system and shall appoint an administrator of the courts and such assistants as he deems necessary to aid the administration of the courts of the State. The Chief Justice shall have the power to assign any judge or magistrate of the State to sit in any court in the State when he deems such assignment necessary to aid the prompt disposition of judicial business, but in no event shall the number of judges and justices exceed the number of justices provided (by this constitution). The administrator shall, under the direction of the Chief Justice, prepare and submit to the legislature the budget for the court of justice and perform all other necessary administrative functions relating to the courts.

This amendment would authorize the assignment of judges to relieve congestion of dockets and would utilize the available judges to

best advantage. No interest in efficiency in the courts can be allowed to sanction interference with the judges' complete independence in the performance of their *judicial* duties. Within this framework, the administrative office of the courts is clearly one of the minimum standards of judicial administration.

III. MANDATORY RETIREMENT AND PENSION OF JUDGES

A judge should be required to retire when he is beyond the age of competent performance of his duties. If the decision as to when he should step down is left to the judge, election under Mississippi's system could be tantamount to an election of from four to eight years, as the case might be. Consequently, mandatory retirement upon reaching a certain age, coupled with a liberal pension, are integral parts of the plan. Unfortunately, a mandatory age limit will retire many perfectly competent judges. But it is believed that the administration of justice will be better served by retiring all judges rather than running the risk of continuing in office a judge of diminished capacities. Litigants and lawyers should not have to suffer the effects of dimming sensitivity to a complex argument, delayed decisions, and crowded calendars. Society, as well, has an interest in all judges satisfactorily and efficiently performing their duties. These considerations dictate the necessity of mandatory retirement, but there is no ideal age for it. I agree with the American Bar Association's recommendation that the age limit should not be lower than 65, and that it reasonably may be made higher, say 70 years. Moreover, a retired judge who has not lost his powers still can be of valuable service. Provision should be made for the Supreme Court to recall a retired judge on a temporary basis to relieve court congestion or to hold court for other judges in emergencies. The Model State Judicial Article (section 6, paragraph 2) provides:

Retirement. Every justice and judge shall retire at the age specified by statute at the time of his appointment, but that age shall not be fixed at less than sixty-five years. The Chief Justice is empowered to authorize retired judges to perform temporary judicial duties in any court of the State.

Concomitant with some system of mandatory retirement, there must be a provision for adequate retirement or pension benefits. Society has an obligation to reward and provide for an individual who has devoted his full working lifetime to public service. The pension of an individual who has devoted less than his full working life to public service should be proportional to his length of service. The proposed Model State Judicial Article (section 7, paragraph 2) has this provision:

Pensions. Provision shall be made by the legislature for the payment of pensions to justices and judges and their widows. In the case of justices and judges who have served ten years or more, and their widows, the pension shall not be less than fifty per cent of the salary received at the time of the retirement or death of the justice or judge.

Presently, Mississippi has an entirely inadequate judicial retirement system. Pension benefits for retired judges are quite low, unless they have served at least thirty years, and there are no pension provisions for widows of deceased judges. The proposed constitutional amendment would overcome these difficulties, and would help to attain the objectives of a reasonable mandatory retirement with adequate pension for judges and their widows.

IV. A JUDICIAL COUNCIL

Judicial independence can be preserved and indeed strengthened within a system of courts efficiently administered. The Mississippi State Bar has recommended to the Legislature for many years the creation of a Judicial Council, which is an independent, non-partisan body to study and report on the state's judicial system, and to make recommendations to the courts and the Legislature for improvements. This includes the collection of statistical and other information, methods of selection of the courts, personnel, the efficiency with which judicial business is being administered, the soundness of the rules of practice, procedure, and evidence, and other matters of a similar nature. A Judicial Council is strictly a fact-finding body. The results of its activities, together with any recommendations or suggestions the Council has to make, are then published in its periodic reports to the Legislature and the courts. Its function is merely to investigate, review, and recommend.

The Bar's recommendations for a Council have been ignored, although at the last session a subcommittee of the House Judiciary Committee evidenced some initial interest in it. Mississippi needs a Judicial Council. Most of the states of the Union have one. In addition to being a continuing, independent, critical agency of the courts, it has many intangible values in the way of stimulating discussion and suggesting lines of thought for members of the bench, bar, legislature, the press, and the general public. I would propose, as part of a set of constitutional amendments to the Judiciary Article of the Mississippi Constitution, a provision creating a Judicial Council, requiring no implementation by the legislature, except directing it to provide adequate funds for its support.

V. CONCLUSION

In summary, four short amendments to the Judiciary Article of the state's Constitution and one statute would result in flexible, modern rules of practice and procedure, a sound business administration of the Mississippi courts, a realistic mandatory retirement system for judges, adequate pension benefits for judges and their widows, and a Judicial Council. These are things for which the Bar has striven, and to which, I think, the citizens of Mississippi will be receptive, if the Bar gives them the facts and defines the need. The State Bar should sponsor Citizens' Conferences on the State Courts, as is being done in all of our neighboring states. This is essential to get public support. A broad base of interest by lay-leaders, business and professional, is necessary to implement these proposals. With this public sentiment, I think the Legislature would be willing to let the people vote on these constitutional amendments. And under the 1959 change in Constitution section 273, these four amendments, relating to the same subject, may be submitted as one proposition, by a two-thirds vote of a majority of each house of the Legislature.

Alfred North Whitehead once said: "The art of progress is to preserve order amid change and to preserve change amid order." A legal system is like a living organism: It must grow and develop, or it declines and withers. This is the challenge to the Bar and to the public in the administration of justice in our state. But it is not only a challenge—it is an opportunity.

Mr. Sweat then introduced as the second speaker, Mr. John W. Wade, Dean of the Vanderbilt University School of Law, who delivered the following address.

RECENT DEVELOPMENTS IN THE LAW OF TORTS

John W. Wade

The subject allotted to me is "Trends in the Law of Torts." I thought first of discussing several areas in tort law where Mississippi has had unusual developments, such as the actionable words statute or comparative negligence. But then it occurred to me that you know more about that than I do, and that I should discuss developments in other parts of the country with which you may not be entirely familiar. Thus, I have decided to discuss in some detail a single field—the subject of products liability.

This is a field in which a complete judicial revolution has occurred. Its origin goes back many years, but the most abrupt change has taken place in the last seven or eight years. Indeed, this change may be the

greatest one in the field of private law which has occurred in the history of our country. It is a field in which Mississippi has appeared in one sense to lag—I emphasize the word, appeared—and in another respect has provided a type of leadership for the country as a whole.

The law on the subject of products liability began in England about 125 years ago, with the famous case of *Winterbottom v. Wright*,¹ decided by the Exchequer Chamber in 1842. That was a case in which a mail coach passenger, injured when the coach collapsed, brought action against the supplier of the coach. The court held for the defendant on the ground that there was no privity of contract between the plaintiff and the defendant. The court took the viewing-with-alarm attitude, saying that the “most absurd and outrageous consequences would occur” if it should allow an action of this sort and that it could see no end to what might happen. This case was regarded as setting the rule. In order for a plaintiff to maintain an action for negligence against the supplier or manufacturer of a chattel, privity of contract was necessary.

The rule was a harsh one, and exceptions quickly began to develop. A leading case was *Thomas v. Winchester*,² in which drugs had been mixed up and belladonna was supplied instead of dandelion extract. The New York court held the drug manufacturer liable even though there was no privity of contract, because the drug was so dangerous that it almost killed the plaintiff. Other cases appeared to create exceptions, too, and the state of the law became rather uncertain. In 1903, Judge Sanborn, then of the Court of Appeals for the Eighth Circuit, in the case of *Huset v. J. I. Case Threshing Machine Co.*,³ tried to collect all of the earlier cases and to organize them. His conclusion was that the general rule still was that there was no liability in the absence of privity, subject to three significant exceptions. The first was when the article was imminently dangerous and was something which affected life or limb. The second had to do with the use of the chattel on the defendant’s own premises. And the third was when the defendant knew of the defective and dangerous condition of the chattel. This *Huset* case quickly became the leading authority, and courts thereafter purported to operate from this set of rules. This was the position which was taken by the Mississippi court. But the exceptions continued to grow, and in 1916 the New York court rendered what is at least one of the most famous tort cases in this country, *MacPherson v. Buick Motor*

¹10 M. & W. 109, 152 Eng. Rep. 402 (Ex. 1842). The earlier case of *Langridge v. Levy*, 2 M. & W. 519, 150 Eng. Rep. 863 (Ex. 1837), allowed recovery for injury incurred from a defective gun, on the ground of misrepresentation.

²6 N.Y. 397, 57 Am. Dec. 455 (1852).

³120 Fed. 865 (8th Cir. 1903).

Co.⁴ In this case Judge Cardozo reviewed earlier authorities and came to the conclusion that the exceptions had grown and expanded to such an extent that they had eroded the rule; they had become themselves the rule. The rule now was, he said, that if the chattel would be dangerous when negligently made, then there was a duty to use care in manufacturing it, and liability would be imposed without having to show privity. The holding in *MacPherson* immediately took hold and spread throughout the country. It was slow in being adopted in certain parts of the South, such as Mississippi and Tennessee, and there were cases in both of these jurisdictions after *MacPherson* which expressly followed the old rule in *Huset v. J. I. Case*, to the effect that the article had to be inherently or imminently dangerous. In Mississippi, for example, this was the position taken in *Ford Motor Co. v. Myers*,⁵ decided in 1928.

Today, when writers collect the authorities on this issue, they say that every state in the union has followed the rule in *MacPherson*, with the possible exception of Mississippi. They speak of the "possible exception" of Mississippi because the *Myers* case has never been overruled, and in its recent decisions the court has not had occasion to pass expressly on the issue of whether the *MacPherson* rule has been adopted. It should be mentioned, however, that when the Court of Appeals for the First Circuit in 1957 found it necessary under the rule in *Erie R.R. v. Tompkins*⁶ to apply the Mississippi rule, that court, speaking through Judge Magruder, held that if the problem ever came before the Mississippi court in a fashion which directly presented the issue, that court would adopt the *MacPherson* rule.⁷

Let me take just a moment to refer briefly to the most important recent Mississippi decisions. In *DuPont v. Ladner*,⁸ liability was not imposed on the chemical company for supplying a dangerous chemical to be used in animal food for cattle. This holding was on the ground that the defendant, the chemical company, had notified the manufacturer of the foodstuff that it was dubious as to whether the chemical should be used for this purpose, but the latter had continued to use it anyway. The basis for the holding was lack of causation, and this, it seems to me, suggests by indirection that with the element of causation properly met, the court would have found liability, perhaps on the basis of *MacPherson*.

⁴217 N.Y. 382, 111 N.E. 1050 (1916).

⁵151 Miss. 73, 117 So. 362 (1928).

⁶304 U.S. 64 (1938).

⁷*Mason v. American Emery Wheel Works*, 241 F.2d 906 (1st Cir. 1957).

⁸*E. I. DuPont de Nemours & Co. v. Ladner*, 221 Miss. 378, 73 So. 2d 249 (1954).

*Harrist v. Spencer-Harris Tool Co.*⁹ was a Mississippi case involving an oil rigging, with steps which slanted slightly downward, on which the plaintiff slipped and fell. It was held that there was no liability, but on the ground that if there was any danger involved, it was an open and apparent danger. But there would be no liability even under the rule of *MacPherson*.

*Cox v. Laws*¹⁰ is a case in which liability was imposed for injury incurred from the use of penicillin ointment. But liability would have been imposed there under the early rule of *Thomas v. Winchester*,¹¹ and even under the Mississippi case of *Ford Motor Co. v. Myers*.¹² So the court held for the plaintiff without having to announce whether it would follow the *MacPherson* rule.¹³

The Mississippi court, unlike some other courts, has followed a principle of judicial self-restraint and has not tried to lay down a new rule of law when it was not necessary to do so in order to attain the right decision in the particular case before it. But I will make a prediction today. My prediction, like that of Judge Magruder, is that when a suitable case comes before it, the Mississippi court will be in accord with the majority in the rest of the country insofar as liability for negligence is concerned and will adopt the *MacPherson* rule of not requiring privity for recovery.¹⁴ So much for products liability in negligence.

During the latter period of the negligence developments, a new line of authorities grew up. They based liability on the ground of breach of warranty. Of course, if there was an express warranty, the action would be on that undertaking or contract. But this action was on an "implied warranty," an obligation imposed by the law rather than on agreement between the parties. The law established two implied warranties, one of wholesomeness or merchantability, and one of suitability for the purpose for which sold. The concept of warranty in the very beginning started as a tort idea, but the action soon came to be regarded as one in contract. There was therefore more reason for saying that in an action for breach of warranty (express or implied)

⁹244 Miss. 84, 140 So. 2d 558 (1962).

¹⁰244 Miss. 696, 145 So. 2d 703 (1962).

¹¹N.Y. 397, 57 Am. Dec. 455 (1852).

¹²151 Miss. 73, 117 So. 362 (1928).

¹³In the later case of *Triplett v. American Creosote Works*, 251 Miss. 727, 171 So. 2d 342 (1965), the court held that there could be no recovery for a power line pole which broke fifteen years after it was installed, on the ground that it must not have been imminently dangerous at the time it was supplied.

¹⁴Editor's Note: Dean Wade's prediction has been substantiated by the recent Mississippi case of *State Stove Mfg. Co. v. Hodges*, 189 So. 2d 113, 118 (Miss. 1966), wherein the court expressly overruled *Ford Motor Co. v. Myers*.

privity of contract was required. Yet beginning around 1913, some courts began to find ways of getting around this rule. Instead of holding that privity was not necessary in certain types of situations, they resorted to various types of legal devices for finding privity present even though the action was by the ultimate consumer against the manufacturer, with a retailer intervening.¹⁵ Eventually, the one which came to be most widely recognized was originated by the Mississippi court in the case of *Coca-Cola Bottling Works v. Lyons*,¹⁶ decided in 1927. Presiding Judge Holden reasoned that the implied warranty of wholesomeness which applies to food or drink would be regarded as attaching to the chattel and running with it to the ultimate consumer. This had not previously been the law regarding chattels (as distinguished from covenants running with real property), and some writers criticized it as being a fiction. In my view, it was not a fiction at all. It was simply a ruling of law, not a pretending that certain facts existed when they did not, and if the court held that this was the law, it was actually the law.

This rule of implied warranty regarding foodstuffs, and a corresponding one of treating violation of a pure food law as negligence per se, continued to grow until the time came when the states following one or the other of these positions constituted a majority of the jurisdictions—though the legal writers were slow to recognize this. Note that when the user sued the manufacturer on this basis, he did not have to prove negligence—only that the food was not wholesome or was in violation of the pure food law when it left the manufacturer. There was no need to show fault on the defendant's part in allowing it to get in that condition. Note also that the cases following this viewpoint all involved foodstuffs, something that was ingested, and that they purported to go no farther.

The next development came in 1958, with the Michigan decision of *Spence v. Rivers Builders & Masonry Supply, Inc.*,¹⁷ which seemed to apply the implied-warranty theory to hold a manufacturer liable for defective cinder blocks. You see the change here, from foodstuffs to other kinds of articles. The opinion was somewhat confusing and somehow mixed ideas of negligence and implied warranty, but did seem to hold that there could be a warranty recovery. Soon there came to be a substantial number of other decisions applying to many kinds of articles, such as automobiles, airplanes, an electric cable, a hula skirt, a gas range,

¹⁵The first case was *Mazetti v. Armour & Co.*, 75 Wash. 622, 135 Pac. 633 (1913). For other cases see Gillam, *Products Liability in a Nutshell*, 37 ORE. L. REV. 119, 153-55 (1958).

¹⁶145 Miss. 876, 111 So. 305 (1927).

¹⁷353 Mich. 120, 90 N.W.2d 873 (1958).

and a water heater. Perhaps the leading case in this connection was *Henningsen v. Bloomfield Motors, Inc.*,¹⁸ with a forceful opinion by Judge Francis clearly applying the Mississippi rule of the warranty running with the chattel to an automobile. Another leading case was *Goldberg v. Kollsman Instrument Corp.*,¹⁹ a New York decision involving an airplane. Obviously, there was here involved not just a trend but a groundswell.²⁰

During this period the *Restatement of Torts* was being revised; the *Restatement (Second)* was in process of being produced by the American Law Institute. The Reporter was Dean William L. Prosser, whose famous treatise on torts I am sure you are all acquainted with. He studied the warranty cases and came up with the idea that what was truly involved in them was not the contract law of warranty at all, but strict liability in tort. And he prepared a section to this effect in the new *Restatement* which he presented first to his advisory group and then to the Council of the Institute and then to the entire Institute. In each case they accepted it and it became embodied in section 402A of the *Restatement (Second)*. The position is that the real explanation of the warranty cases—such as *Spence*, *Henningsen*, and *Goldberg*—is that they are involving tort actions with no need to prove negligence, the liability being strict, and that all of the talk about warranty is mere excess impedimenta. All of the implied warranty terminology and restrictions could be eliminated. As originally drafted, the section applied only to foodstuffs; it was later extended to articles involving intimate bodily contact (e.g., hair sprays, hula skirts); and then, as the cases kept coming, it was extended to articles generally.

¹⁸32 N.J. 358, 161 A.2d 69 (1960).

¹⁹12 N.Y.2d 432, 191 N.E.2d 81 (1963).

²⁰See, e.g., *Picker X-Ray Corp. v. General Motors Corp.*, 185 A.2d 919 (Munic. App. D.C. 1962) (automobile); *Continental Copper & Steel Indus. v. E. C. "Red" Cornelius, Inc.*, 104 So. 2d 40 (Fla. App. 1958) (electric cable); *Green v. American Tobacco Co.*, 154 So. 2d 169 (Fla. 1963) (cigarette); *State Farm Mut. Auto. Ins. Co. v. Anderson-Weber, Inc.*, 252 Iowa 1289, 110 N.W.2d 449 (1961) (car); *Patterson v. George H. Weyer, Inc.*, 189 Kan. 501, 370 P.2d 116 (1962) (hair wave solution); *Piercefield v. Remington Arms Co.*, 375 Mich. 85, 133 N.W.2d 129 (1965) (shotgun—bystander); *Beck v. Spindler*, 256 Minn. 543, 99 N.W.2d 670 (1959) (dictum—any product); *Morrow v. Caloric Appliance Co.*, 372 S.W.2d 41 (Mo. 1963) (gas range); *Esborg v. Bailey Drug Co.*, 61 Wash. 2d 341, 378 P.2d 298 (1963) (hair dye). Federal cases applying presumed state law include *Dagley v. Armstrong Rubber Co.*, 344 F.2d 245 (7th Cir. 1965) (Indiana; tire); *Putman v. Erie City Mfg. Co.*, 338 F.2d 911 (5th Cir. 1964) (Texas; wheel chair); *Deveny v. Rheem Mfg. Co.*, 319 F.2d 124 (2d Cir. 1963) (Vermont; water heater); *Chapman v. Brown*, 198 F. Supp. 78 (D. Hawaii 1961), *aff'd*, 304 F.2d 149 (9th Cir. 1962) (hula skirt); *cf. United States Rubber Co. v. Bauer*, 319 F.2d 463 (8th Cir. 1963) (North Dakota; driver belt).

As finally and officially promulgated by the American Law Institute, section 402A reads as follows:

Special Liability of Seller of Product for Physical Harm to User or Consumer.

(1) One who sells any product in a defective condition unreasonably dangerous to the user or consumer or to his property is subject to liability for physical harm thereby caused to the ultimate user or consumer, or to his property, if

(a) the seller is engaged in the business of selling such a product, and

(b) it is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(2) The rule stated in Subsection (1) applies although

(a) the seller has exercised all possible care in the preparation and sale of his product, and

(b) the user or consumer has not bought the product from or entered into any contractual relation with the seller.²¹

The first case frankly to adopt this theory of strict liability in tort is the California decision of *Greenman v. Yuba Products, Inc.*,²² with an opinion by Judge Roger Traynor (one of the advisors to the Reporter for the *Restatement of Torts*) which has made the case a leading one. Other cases quickly followed. States which had adopted the warranty theory, such as New Jersey in the *Henningsen* case, now openly hold that the strict-liability-in-tort theory is the better explanation.²³ New York characterized it as "surely a more accurate phrase."²⁴ Illinois²⁵ and numerous other states²⁶ have expressly adopted it. This rule is clearly and indubitably the rule of the immediate future,²⁷ and it is entirely accurate to assert that this is already the current legal rule in the area of products liability.²⁸

²¹The Institute also listed the following caveat: "The Institute expresses no opinion as to whether the rules stated in this Section may not apply (1) to harm to persons other than users or consumers; (2) to the seller of a product expected to be processed or otherwise substantially changed before it reaches the consumer; or (3) to the seller of a component part of a product to be assembled."

²²59 Cal. 2d 57, 377 P.2d 897 (1963).

²³*Santor v. A & M Karagheusian Co.*, 44 N.J. 52, 207 A.2d 305 (1965).

²⁴*Goldberg v. Kollsman Instrument Corp.*, 12 N.Y.2d 432, 437, 191 N.E.2d 81, 83 (1963).

²⁵*Suvada v. White Motor Co.*, 32 Ill. 2d 612, 210 N.E.2d 182 (1965).

²⁶See, e.g., *Ford Motor Co. v. Lonon*, 398 S.W.2d 240 (Tenn. 1966).

²⁷Editor's Note: The *Restatement* rule of strict liability in tort is now expressly adopted as the rule in Mississippi. In *State Stove Mfg. Co. v. Hodges*, 189 So. 2d 113 (Miss. 1966), the Mississippi Supreme Court quoted section 402A and adopted it as stating "the appropriate standards of responsibility." *Id.* at 118.

²⁸This statement is literally true if the cases are carefully classified. The rule of

I want to take a moment, though, to explain something about the nature of this rule. If one starts talking about strict liability in tort, he immediately raises visions of a form of absolute liability, of an insurer's liability where all the plaintiff has to do is to show that he was hurt and that the defendant supplied the chattel. This is not true. In this connection there has been a real misunderstanding. Take a look at the language of section 402A. It speaks of a "product in a defective condition unreasonably dangerous to the user or consumer or to his property." Note that the product must be unreasonably dangerous. We do not automatically say that if a product has been sold and somebody has been hurt, there is liability. We do not hold that if a company makes a hammer and a man starts using it and hits his thumb and smashes it, the company is liable. An ordinary hammer is not considered as unreasonably dangerous, though it does carry some danger. Suppose a company makes a match, somebody strikes it and a fire is started. There is no automatic liability. We do not hold that every time someone is hurt in an automobile accident, the automobile manufacturer is liable. All automobiles

strict tort liability has also been adopted in the following jurisdictions: *Garthwait v. Burgio*, 153 Conn. 290, 216 A.2d 189 (1965); *Dealers Transp. Co. v. Battery Dist. Co.*, 402 S.W.2d 441 (Ky. 1966); *Lonzrick v. Republic Steel Corp.*, 6 Ohio St. 2d 227, 218 N.E.2d 185 (1966) (semble); *Marathon Battery Co. v. Kilpatrick, Prod. Liab. Rep.* ¶ 5501 (Okla. 1965); *Wights v. Staff Jennings, Inc.*, 405 P. 2d 624 (Ore. 1965).

In addition, there are strong indications that it is the rule in Arizona and Wisconsin. See *Colvin v. Superior Equipment Co.*, 96 Ariz. 113, 392 P.2d 778 (1964); *Nalbandian v. Byron Jackson Pumps, Inc.*, 97 Ariz. 280, 399 P.2d 681 (1965); *Strahlendorf v. Walgreen Co.*, 16 Wis. 2d 421, 114 N.W.2d 823 (1962). In *Long v. Flanigan Whse. Co.*, 79 Nev. 241, 382 P.2d 399 (1963), the Nevada court, while holding that privity was necessary in an action for implied warranty, pointedly and expressly indicated that the holding on strict liability in tort might be different when that question arose. Perhaps a similar remark may be made of North Carolina and Rhode Island. See *Terry v. Double Cola Bottling Co.*, 263 N.C. 1, 138 S.E.2d 753 (1964); *Henry v. John W. Eshelman & Sons*, 209 A.2d 46 (R.I. 1965). These North Carolina and Rhode Island cases are the only very recent ones to hold no liability. A Rhode Island statute has now eliminated the requirement of privity in case of "foodstuffs or drinks sold for human consumption." R.I. GEN. LAWS § 6A-2-315 (Cum. Supp. 1965).

Reference should also be made to statutes in several states eliminating in varying degrees the privity requirement. This is true in Alabama, Arkansas, Georgia, Rhode Island, Virginia, and Wyoming. Finally, there are a number of states which have by judicial decision eliminated the privity requirement in case of foodstuffs—though they have not yet gone further—such as Montana, Nebraska, and South Carolina.

When all of these are added together, along with the implied-warranty cases, *supra* note 20, there is a clear and very substantial majority of jurisdictions imposing some form of strict liability for products without requiring privity of contract, while the contrary authority of truly recent vintage is almost negligible.

are dangerous; you know that as well as I do. But the ordinary automobile is not held to be unreasonably dangerous.

The *Restatement* theory of strict liability is very close to the negligence per se which arises when there is a violation of a pure food statute because of the sale of unwholesome food. Strict liability for products comes essentially to this: it is not necessary to prove that the manufacturer knew his product was in a dangerous condition—we assume scienter, or knowledge—but it is still necessary to prove that if one knew of the exact condition of the chattel, he would have been negligent in selling it—putting it on the market in its dangerous condition. This is obviously very close to the law of negligence; it is just eliminating the requirement of proving scienter. A realization of this circumstance has afforded a considerable amount of comfort to the defendant's attorneys. What is unreasonably dangerous involves the application of a standard. And like other standards—such as that of the reasonably prudent man in the law of negligence—it is applied sometimes by the court and sometimes by the jury. The relative function of these two agencies has not yet been clearly worked out in this particular area. I wish there were time to discuss this area at greater length and to give further illustrations.²⁹

This next development began its modern history with the Washington case of *Baxter v. Ford Motor Co.*,³⁰ decided first in 1932 and then again in 1934. Ford advertised that they were putting shatterproof glass in their windshields, and the plaintiff bought a Ford after he had read the advertisement. As he was driving down the road, a piece of gravel was thrown against the windshield. While it did not shatter, a small piece of glass was knocked out and went into his eye. The court held that the Ford Motor Company might be held liable without having to prove negligence. The basis for the decision was never very clear. There was some language indicating that the case was decided on the basis of an express warranty which ran directly from the manufacturer to the ultimate purchaser. Other language indicated that the retailer was merely a conduit passing on the express warranty. And still other language indicated that the basis of recovery was misrepresentation.³¹

Soon after the decision in *Baxter*, there were two federal cases holding to the contrary. But since those two cases, most holdings have been

²⁹A more thorough discussion is found in Wade, *Strict Tort Liability of Manufacturers*, 19 Sw. L.J. 5, 13-21 (1965).

³⁰168 Wash. 456, 12 P.2d 409 (1932), *second appeal*, 179 Wash. 123, 35 P.2d 1090 (1934).

³¹Liability based on misrepresentation goes back to the first fully reported products liability case. See *Langridge v. Levy*, 2 M. & W. 519, 150 Eng. Rep. 863 (Ex. 1837).

in accord with *Baxter*, and the state of the law in this area has been regarded as clear enough.³² The rule has been adopted by the *Restatement (Second)* in section 402B, where it is explained on the basis of misrepresentation. This section reads as follows:

Misrepresentation by Seller of Chattels to Consumer.

One engaged in the business of selling chattels who, by advertising, labels, or otherwise, makes to the public a misrepresentation of a material fact concerning the character or quality of a chattel sold by him is subject to liability for physical harm to a consumer of the chattel caused by justifiable reliance upon the misrepresentation, even though

- (a) it is not made fraudulently or negligently, and
- (b) the consumer has not bought the chattel from or entered into any contractual relation with the seller.³³

There is one further development to report. Both sections 402A and 402B applied to the situation where there had been physical injury. Physical injury means injury to person or damage to property. Suppose that neither of these is present, but that the product was simply not up to standard. Plaintiff's complaint then is not physical injury, but that he suffered an economic loss in not getting what he thought he was buying. You can see that this sounds like a contract action, based on the failure of the defendant to sell what he contracted to sell. And if that is so, should privity of contract be required? There have been several very recent cases raising this very problem.

The first case of importance was the New Jersey decision of *Santor v. A & M Karagheusian, Inc.*³⁴ Plaintiff purchased from a local dealer topgrade "Gulistan" carpeting manufactured by defendant. Shortly after it was installed, a line appeared; and when plaintiff complained, the retailer told him that it would "walk out." Instead, more lines appeared and the carpet deteriorated. When plaintiff went back to the dealer, he found an empty store with a sign "Out of Business"; the retailer moved from New Jersey to Maine. So plaintiff sued the manufacturer directly,

³²See, e.g., *Mannsz v. MacWhyte Co.*, 155 F.2d 445 (3d Cir. 1946); *Randy Knitware, Inc. v. American Cyanamid Co.*, 11 N.Y.2d 5, 181 N.E.2d 399 (1962); *Rogers v. Toni Home Permanent Co.*, 167 Ohio St. 244, 147 N.E.2d 612 (1958); *Wise v. Hayes*, 58 Wash. 2d 106, 361 P.2d 171 (1961). See generally PROSSER, *TORTS* 684-85 (3d ed. 1964); *RESTATEMENT (SECOND), TORTS*, Appendix § 402B (1966).

³³The section has the following caveat: "The Institute expresses no opinion as to whether the rule stated in this Section may apply (1) where the representation is not made to the public, but to an individual, or (2) where physical harm is caused to one who is not a consumer of the chattel."

³⁴44 N.J. 52, 207 A.2d 305 (1965).

claiming that his carpet was a "lemon." The New Jersey Supreme Court held that the action would lie, apparently on the basis of strict liability in tort, though there was some discussion of implied warranty.

The second case is *Seely v. White Motor Co.*,³⁵ involving a White truck that "galloped." This was before the California court, with the opinion by Chief Justice Roger Traynor, who had written the opinion in *Greenman v. Yuba*.³⁶ The court said in this case that strict tort liability would not apply, since there was no physical injury involved but only an economic loss. It did finally decide to grant recovery on the basis of an express warranty intended to run from the manufacturer directly to the consumer.

The last case is *Ford Motor Co. v. Lonon*,³⁷ involving a tractor which was also sub-standard and would never work properly. The Supreme Court of Tennessee held first that it was ready to adopt the theory of strict liability in tort which is set forth in section 402A of the *Restatement*, and second that the explanation in section 402B as to misrepresentation was the correct one for the *Baxter* type of situation. But it adverted to the fact that both 402A and 402B were applicable only when there was a physical injury, and there was no such injury in this case. The court's attention had been called somehow to another provision in the *Restatement (Second)*, section 552D. This section has not yet been officially adopted by the Institute and exists only in the form of a Council draft which is marked "Confidential." Since the court quoted the section, it seems appropriate for me to quote it now from the opinion in the *Lonon* case. It reads:

Misrepresentation by Seller of Chattels to Public.

One engaged in the business of selling chattels who, by advertising, labels or otherwise, makes to the public a misrepresentation of a material fact concerning the character or quality of a chattel sold by him is subject to liability for pecuniary loss caused to another by his purchase of the chattel in justifiable reliance upon the misrepresentation, even though it is not made fraudulently or negligently.³⁸

On this basis there can be recovery for economic loss if the plaintiff shows a misrepresentation in the advertising. There need not be scienter, or knowledge of the falsity of the representation, but there must be a statement of a material fact. The *Lonon* case, I think, offers the best treatment of this problem.³⁹

³⁵63 Cal. 2d 9, 403 P.2d 145 (1965).

³⁶*Greenman v. Yuba Power Products*, 59 Cal. 2d 57, 377 P.2d 897 (1963).

³⁷398 S.W.2d 240 (Tenn. 1966).

³⁸*Id.* at 246-47.

³⁹For other cases involving economic loss see *Continental Copper & Steel Indus.*,

This question of direct recovery against the manufacturer for economic loss is the most important problem in the law of products liability at the present time. There are a number of practical problems which arise in connection with allowing recovery. If the viewpoint of the *Santor* case is adopted, there is a distinct likelihood of a large number of nuisance suits brought by a purchaser who has become dissatisfied with the article he purchased. When physical injury is required, there is an objective basis for determining whether damages have actually been incurred. But if all the plaintiff has to do in order to maintain an action is to say that the article was not up to standard and that he is dissatisfied with it, the cases may be very numerous. And with the long-arm jurisdictional statutes, so that there can be a suit between a local plaintiff and a foreign manufacturer, it is not hard to guess the outcome in most of these actions. Indeed, this has already been suggested in several actions where suit for economic loss was brought jointly against the local retailer and the foreign manufacturer, and the jury found for the former as defendant and against the latter.⁴⁰ This suggests that in the direct action for economic loss, the plaintiff ought to be required to prove, not simply that the article was not of merchantable quality, but also that the manufacturer had misrepresentations in his advertising.

What the eventual outcome will be in this action for economic loss, or loss of bargain, I find hard to predict. But I have no difficulty at all in predicting that when the article is unreasonably dangerous and the plaintiff suffers physical injury, the great majority of the courts will allow an action against the manufacturer without requiring privity of contract. One of the problems then will be that of causation, and liability may be cut off on that basis, as it was in the *DuPont* case in Mississippi.⁴¹ Regretfully, I do not have enough time to discuss that and many other important aspects of the products liability area.⁴²

Inc. v. E. C. "Red" Cornelius, Inc., 104 So. 2d 40 (Fla. App. 1958); Randy Knitware, Inc. v. American Cyanamid Co., 11 N.Y.2d 5, 181 N.E.2d 399 (1962); Irglis v. American Motors, 3 Ohio St. 2d 132, 197 N.E.2d 921 (1965); Price v. Gatlin, 405 P.2d 502 (Ore. 1965).

⁴⁰In Tennessee alone this occurred in the trial court in the cases of *Ford Motor Co. v. Lonon*, 398 S.W.2d 240 (Tenn. 1966); *Oliver Corp. v. Green*, 393 S.W.2d 625 (Tenn. App. 1965); and *Kyker v. General Motors Corp.*, 214 Tenn. 521, 381 S.W.2d 884 (1964).

⁴¹Editor's Note: In *State Stove Mfg. Co. v. Hodges*, 189 So. 2d 113 (Miss. 1966), the Mississippi Supreme Court unanimously adopted the rule of *Restatement* section 402A, but was divided five to four on the issue of causation as applied to the facts of the case.

⁴²See generally Keeton, *Products Liability-Some Observations about Allocation of Risks*, 64 MICH. L. REV. 1329 (1966); Lascher, *Strict Liability in Tort for Defective Products: The Road to and Past Vandermark*, 38 SO. CAL. L. REV. 30 (1965);

Mr. Sweat then introduced as the final speaker on the panel Mr. John A. H. Murphree, Circuit Judge, Gainesville, Florida, who delivered the following address.

OUR STATE COURTS—DEVELOPMENTS IN JUDICIAL ADMINISTRATION

John A. H. Murphree

Through my activities in the National Conference of State Trial Judges over the past eight years and my connection with the National College of State Trial Judges the past two summers, I have had the opportunity of talking with judges from every state in the Union, including Alaska and Hawaii. Some were from multi-judge courts in the metropolitan centers, some from single judge courts in rural areas, and others in between. From this experience I have drawn the conclusions that there exists an amazing diversity among the states in the organization of court systems and in the methods and techniques employed in administering justice, and that although methods vary the principles of good judicial administration are substantially the same, in the metropolitan courts as in those of the smaller places.

Surely, the objective of all courts must be to administer justice fairly, impartially, promptly, and in accordance with the law. As members of the legal profession, it behooves all of us to examine with an open mind what others are doing to attain better justice in the courts.

THE JOINT COMMITTEE

When Mr. John Satterfield, distinguished attorney of your state, was President of the American Bar Association, at the meeting of the National Conference of State Trial Judges at St. Louis, I well recall that he and Mr. Justice Tom C. Clark of the United States Supreme Court appeared before our Conference and explained the "Joint Committee," which had been formed to carry out the project "Effective Justice," under the chairmanship of Mr. Justice Clark. I do not know who conceived the Joint Committee, but I do know that Mr. Satterfield more than anyone else was responsible for organizing it and initiating its action. He must, therefore, be given great credit for what the Joint Committee has accomplished.

The idea of the Joint Committee was to bring together the many

Noel, *Strict Liability of Manufacturers*, 50 A.B.A.J. 446 (1964); Prosser, *The Assault upon the Citadel (Strict Liability to the Consumer)*, 69 YALE L.J. 1099 (1960); Prosser, *The Fall of the Citadel*, 50 MINN. L. REV. 791 (1966); Traynor, *The Ways and Meanings of Defective Products and Strict Liability*, 32 TENN. L. REV. 363 (1965); Wade, *Strict Tort Liability of Manufacturers*, 19 SW. L.J. 5 (1965).

existing national organizations, including the National Conference of State Trial Judges, which had for their central purpose the improvement of the administration of justice, and to delineate areas of responsibility so as to minimize duplication of effort in attaining the common goal. A grant for the project was obtained from the Kellogg Foundation to finance the undertaking for a three year period.

In the beginning the Joint Committee made this declaration of principles:

Justice is effective when:

Fairly Administered without Delay
By Competent Judges
Operating in a Modern Court System
Under Simple and Efficient Rules of Procedure.

I take that declaration for my text because I subscribe to it and it will serve as a guide for my discussion.

DELAY

Undoubtedly, one of the chief complaints against courts and lawyers today is that of delay in the disposition of litigation. There are many reasons for delay, sometimes justifiable, often not.

As far as judges are concerned, some administrative authority that would call them to task if a decision is too long delayed would be a wholesome thing. As far as lawyers are concerned, it may well be that the judges are too lenient or apply the philosophy that they are there to try the cases only when the lawyers get them ready and ask for trial, rather than assuming a more activist role. To say the least, there should be a cooperative effort and a well understood policy between the bench and the bar that litigation once started must move at a reasonable but steady pace to final conclusion. Neither the judge nor the lawyer can escape just criticism from those who resort to the courts if this is not done.

COURT ADMINISTRATORS

There is a growing trend toward the use of the professional court administrator to assist in the management of the court's business. Operation of a statewide court system is no small matter. No private concern of that magnitude would attempt to operate without a directing head.

Judges by and large are traditionally opposed to being supervised. They say they do not want somebody telling them how to decide their cases. The truth of the matter is, I suggest, they prefer to remain autonomous so that they can take their own time and run their business as they please.

I have talked to a number of judges who operate under systems that have court administrators. I have detected no thought of interference on the part of these judges. In fact, they tell me that the administrator renders many services that are very helpful and not obtrusive.

Administrative authority over the trial courts should be lodged in the chief justice or the state supreme court as it is in many states. Where this is the case, it goes without saying that some executive assistance will be required if the authority is to be effectively utilized. Twenty-seven states now have court administrative offices, including the Southern states of Kentucky, Louisiana, North Carolina, Virginia, and Tennessee.

JUDICIAL COUNCIL

In Florida we have a Judicial Council presided over by a member of the supreme court and composed of representatives of the various courts of the state, the Attorney General, a state attorney, and a number of prominent lay citizens appointed by the Governor who comprise, in fact, a majority of the Council. There is a paid executive secretary and staff to whom the courts make quarterly reports which are compiled and published annually. Aside from collecting statistics, the Council exercises no authority over the operation of the courts, although from time to time it does make recommendations to the Legislature upon matters pertaining to the courts which are designed to improve the administration of justice.

We have seventeen judicial circuits in our state. The smallest in population has two judges, the largest twenty-one. The circuit court is our court of general jurisdiction having jurisdiction of law, equity, criminal, and domestic relations matters. The judges of each circuit select one of their number as the presiding judge, and he performs the necessary administrative duties for the court at the local level.

ASSIGNMENT OF JUDGES

Our Chief Justice exercises the power to assign judges to other areas of the state where needed, including retired judges if willing to serve. Circuit judges are also subject to assignment to the appellate courts and are frequently called upon for this service.

Power to assign judges is absolutely essential to the most efficient use of the judicial manpower of the state. It has the added advantage of broadening the outlook of the assigned judge to serve on a court in the city if he is from a rural area, and vice versa.

PUBLIC DEFENDER SYSTEM

Recent federal decisions in the field of criminal law have created

administrative problems for the courts. Shortly following the *Gideon* decision, on recommendation of our Judicial Council, the Florida Legislature promptly created a statewide public defender system, whereby a competent lawyer as public defender was supplied for each of the seventeen circuits and paid by the state. This has been a very effective method of handling the right to counsel problem. Indigent defendants are receiving good representation, and, what is so very important, they are getting legal assistance at an early stage of the proceedings. It is working well for us.

POST CONVICTION RULE

A post conviction remedy similar to the federal post conviction statute was promptly enacted by our supreme court under its rule-making authority following the *Gideon* decision. This rule has been of invaluable assistance in processing the avalanche of requests from prisoners for release based upon *Gideon*, *Escobedo*, et cetera. Over 6400 post conviction motions have been filed since the inauguration of this rule. Six thousand have been processed and orders entered as of February 1966.

NUMBER OF JUDGES

Obviously, there must always be enough judges to carry the load, or justice will be delayed as it is in many metropolitan areas throughout the country. In some of the largest cities, there is a time lag of two to five years from filing to trial in civil cases. We are not plagued with this problem in Florida, because we have enough judges to do the work. Under our present constitution, there is one circuit judge for every 50,000 people and judges are automatically added according to that yardstick as the population of a given circuit increases. With Florida growing at a rapid rate, this provision has been a very important factor in keeping litigation current. I do not mean to suggest that adding judges is the only answer to court congestion, but certainly it is a basic factor to be considered.

SELECTION OF JUDGES

In 1906 Roscoe Pound made his famous speech to the American Bar Association outlining the causes of *Popular Dissatisfaction With The Administration of Justice*, in which he said: "Putting courts into politics, and compelling judges to become politicians, in many jurisdictions has almost destroyed the traditional respect for the Bench."

In 1913, the American Judicature Society was founded, and for over fifty years that great society has exerted its influence for the improvement of the administration of justice throughout the United States. One

of its main objectives has been to promote judicial selection reform. The plan which the society advocates is *the combination nominate, appoint, elect plan*. The American Bar Association endorsed it in 1937.

It goes by various names—the Kale plan, the American Judicature plan, the American Bar plan, or the Missouri plan of judicial selection. Perhaps the most commonly used name is that of the Missouri plan. This is because Missouri in 1940 was the first state to adopt it for its appellate courts, and the trial courts of the two principal cities. By whatever name called, the essential idea is to have judges appointed to office from a list of candidates nominated by an impartial commission, and then have those judges, after a period of probationary service, stand for election on their record, rather than in contest against other candidates. The goal, of course, is to deemphasize politics.

Proponents of the plan say that this method tends to take the judge out of politics, to give him greater security in office, and to encourage many good lawyers to make themselves available for judicial service who would not otherwise do so. Opponents say it is undemocratic, and that it would make it too hard to get rid of a poor judge. Many judges in office say: I would rather run against a live person than a straw man; I might make an unpopular decision and I could be crucified; if the press got against me, I would not be able to defend myself on equal terms. There are other arguments, but these are typical.

The Missouri plan, or a variation of it, is now in effect in Illinois, Alaska, Alabama (for Jefferson County), Denver (county court), Illinois, Iowa, Kansas (supreme court), Nebraska, Colorado, and Utah. It is now in the process of being voted upon in Kentucky and North Dakota, and doubtless is being considered in other states. Before our 1965 Legislature, the Florida Judicial Council endorsed the Missouri plan idea, which had been approved by the Florida Bar Association. The proposal died in legislative committee, but it will doubtless come up again for consideration in 1967.

CITIZENS' CONFERENCES

Over the past several years under the auspices of the Joint Committee and of the Judicature Society, lay citizen conferences of the seminar type have been conducted in many of the states to discuss court reform, including the idea of an improved method of selecting judges. Such a conference was held in Florida in late 1963. The result was the formation of a permanent citizens' committee to continue to study the problems of the courts and to make recommendations to the Legislature in 1967.

COMPENSATION AND RETIREMENT

In getting and keeping competent judges, beside the matter of selection, adequate compensation and fair retirement benefits are of the utmost importance. Definitely the recent trend throughout the country has been to reexamine salary schedules and retirement plans for judges and to improve upon both. The latest compilation state by state on this subject is to be found in the February 1966 issue of the *Journal of the American Judicature Society*.

The recent action of the Mississippi Legislature in raising judicial salaries is to be commended. In Florida, it took the combined efforts of the judges and particularly of the Florida Bar and an understanding Governor to bring judicial salaries to the fairly respectable level that they are today.

Compulsory retirement of state trial judges at a certain age seems to be a growing trend. Usually the age specified is 70. Many of the states continue to use retired judges on call when needed. More thought, I believe, is being given to the retirement of judges for mental or physical disability short of reaching the age of retirement. Usually a commission composed of judges makes the determination, as in Florida.

REMOVAL

Experience has proven that impeachment of judges is a costly and ineffectual way of eliminating judges who ought not to be on the bench. California has a plan whereby a commission composed of judges will hear and consider complaints against judges. The judge may be exonerated, reprimanded, or removed. If the charges are substantiated before the commission, the judge may voluntarily resign or demand a trial before the supreme court. Only then does the matter become public. The system has resulted in the resignation of about twenty-five judges without the necessity of a public hearing. The one public hearing resulted in an acquittal.

Such a proposal in the form of a constitutional amendment is on the November ballot in Florida. Impeachment by the legislature will remain as a remedy, but I doubt that it will be used if this amendment is adopted. A similar proposal will be voted on in November by Maryland, Nebraska, and Oklahoma. Texas has already adopted it. I believe you can expect more of the states to follow suit.

SIMPLIFICATION OF COURT STRUCTURE

The court structure of the judicial system in many of the states is outmoded today, due no doubt in large measure to the growth of population and commerce and to the change in modes of transportation. As these changes were taking place, the tendency was to create

more and more statutory courts of various types to meet the demands for judicial services. Florida is a glaring example of this evolution. Today we have a hodge podge of sixteen different kinds of trial courts. Overlapping jurisdiction and lack of jurisdiction to do a complete job in many instances creates vexations, problems, and delays.

The broad trend is apparent. It is toward fewer kinds of courts, with broader jurisdiction, operating in divisions for special services where the volume of litigation justifies it, and toward the upgrading of the inferior courts of the system by abolishing the fee method of compensating judicial officers, phasing out the old justice of the peace.

The late Justice Vanderbilt of New Jersey, one of the great leaders in judicial reform in our time, said:

The best work of the bench and bar can be greatly handicapped by a multiplicity of courts with overlapping jurisdictions . . . but three are all that are needed in a modern judicial establishment: a local court of limited civil and criminal jurisdiction, a trial court of general state wide jurisdiction, and an appellate court with an intermediate court or courts of appeal depending on the needs of the particular state.

In my own state our Judicial Council recommended to the Legislature in 1961 a new judicial article which approached in a substantial way the ideal as expressed by Judge Vanderbilt. Many of the judges and lawyers at that time opposed it, and it got nowhere in the Legislature. At present there is a legislative commission at work on a complete revision of our state constitution, including the judicial article. If the presently proposed judicial article is accepted by the Legislature and approved by vote of the people, Florida will have the requisites of a "modern judicial establishment" as described by Vanderbilt, including the Missouri plan for selection in some form. Its chances of ultimate adoption are speculative. Affected judges will be for and against it. Officially, the Florida Bar will probably endorse it as heretofore, but there will be some who will oppose it. I would expect that the citizens' committee will support it. What the newly reapportioned Legislature will do on this and many other state problems remains to be seen. I would think that it will have a better chance of passage by our "new look Legislature" than in 1961 when it was not even considered outside of committee.

States that now have changed their judicial articles to effect a less complex court system are: Arizona, Illinois, Michigan, Missouri, New Jersey, and North Carolina. Those that have changed their judicial articles to permit reform of the minor courts only are: California, Connecticut, North Dakota, and Utah. In time there are sure to be others.

SIMPLE AND EFFICIENT RULES OF PROCEDURE

Obviously, rules of procedure have a direct bearing upon good judicial administration. Florida is basically a common law state. The procedure I learned in law school was an adaptation of the old common law type. In 1957, Florida adopted the Federal Rules substantially in toto for all civil actions, both law and equity. Now that we are accustomed to them, I know of no lawyer or judge in my state who would want to go back to the old practice.

Florida's criminal procedure is contained in many statutory enactments. Our supreme court is just now in the process of promulgating rules of criminal procedure based upon the work of a committee of the Florida Bar. In the light of recent developments in the criminal law, and probably more to come, rules, rather than statutes which lack flexibility, are much to be desired. All of this, of course, is predicated upon our supreme court having complete rule-making power, which I definitely believe is the way it should be.

JUDICIAL EDUCATION

One other factor has had a direct impact upon the improvement of judicial administration in the trial courts of the country, and it will become more and more apparent as time passes. That is the concerted effort that has been made to provide educational programs for trial judges to increase their knowledge and to assist them in the better performance of their judicial duties. I have reference in particular to two movements. The first is the nationwide program of seminars for state trial judges during the three year life of the Joint Committee, under the sponsorship of the Section of Judicial Administration of the American Bar Association and of the National Conference of State Trial Judges. The second is the National College of State Trial Judges which was the logical outgrowth of these seminars.

Seminar programs have brought trial judges together by states or combinations of states to participate in discussions with their fellow judges on common problems. Every state trial judge of general jurisdiction in the country has had the opportunity of attending one or more of these seminars over the period of the last four years.

When the three year Joint Committee seminar program ended, the National College of State Trial Judges continued to sponsor state trial judge seminars in the states upon request. I am told that one is planned by the request of the judges of your state for October of this year. The College is staffed principally by experienced trial judges, appellate judges, law school professors, and practicing lawyers. The curriculum embraces the subjects that mainly concern a lawyer in making the transition from the practice to the bench. Court administration, court

and community relations, evidence, judge-jury relations, criminal law, domestic relations, probation and sentencing, the trial judge's discretion, and new developments in the law are among the subjects. It is an intensive four weeks course conducted on the seminar plan with a minimum of straight lectures. The student judges are selected from each state and usually chosen from judges who have been on the bench less than two or three years.

Through an enlarged grant from the Fleishman Foundation, the College this summer will run a July session at the University of Nevada at Reno for about 100 judges, and another in August for the same number at the University of Colorado at Boulder. In 1967, the plan is to run two sessions of the College of 150 judges each or three sessions of 100 each.

It is estimated that 300 new trial judges of general jurisdiction go on the bench each year, so more and more trial judges will receive the benefit of the College. The National Conference of State Trial Judges is very proud of the part it has played in the seminar program and in connection with the College. I believe that it has made a very real contribution through these media to a better administration of justice in the state trial courts of the country.

CONCLUSION

In closing, may I remind you: *"Justice is effective when fairly administered without delay, by competent judges, operating in a modern court system, under simple and efficient rules of procedure."*

Mr. John T. Armstrong of Hazlehurst then introduced Mr. L. Arnold Pyle of Jackson, who moderated a panel discussion of the topic "Should We Adopt For Our State Courts Rules of Practice and Procedure in Line with the Federal Rules?" Mr. Pyle introduced as the first speaker Mr. William F. Walsh of Houston, Texas, who delivered the following address.

CRIMINAL RULES OF PRACTICE AND PROCEDURE

William F. Walsh

In deciding whether you want to consider taking advantage of some of the procedures provided by the Federal Rules, you should examine honestly whether you do want to make any changes in your own procedures. Throughout the country today there is a need for overall re-examination of the practices we have employed in the trial of criminal cases, in the light of the changes in constitutional interpretations which have occurred in the last several years. I do not believe any state system which has not been intelligently and totally re-appraised, in the

light of what has gone on in the courts recently, can recommend itself to the Bar.

There exists today in some states a most intolerable situation regarding criminal law. We certainly had it in Texas until the first of this year when our new Code of Criminal Procedure became effective. We had a situation where, fundamentally, constitutional rights were not enforced in our state courts, and it was necessary in order to enforce those rights to turn to federal courts by way of habeas corpus and other modes of collateral attacks. This was not a healthy situation and I have not heard any federal judge state that he enjoyed being in the position of running a state criminal procedural system.

There is another reason why we need to examine our criminal procedures, and that is the reason suggested by the Supreme Court decision in the *Gideon* case. It is apparent to me that if you want an assigned counsel system, you will have to rely upon your skilled civil lawyers as well as those who have specialized in criminal practice in the past, because there are not enough criminal lawyers. In fairness to those civil lawyers, there ought to be in every state uniform procedural rules with which they can familiarize themselves when suddenly appointed in a criminal case—uniform both as to state and federal practice to the extent possible within the state.

There is the third factor of fairness to law enforcement. It is wrong to expect a peace officer to make an instantaneous decision when he does not have some clear guidelines as to what it is he should do. After all, those of us who have had legal education and years of practice can still argue a case all the way to the United States Supreme Court, and even those experts are divided five to four in many serious issues of criminal procedure. I do not suggest that any code can encompass every problem which a peace officer is going to face, but I do suggest that much can be done to improve the routine situation so that he will not feel that he is constantly in a situation where he does not know how to perform his job.

If you agree with me that these three factors will entail the adopting of some kind of comprehensive statewide procedure, I think you are entitled to ask: why should we do it now? My answer to that question would be this: there is no time better than now, because never in the history of this country has there been more concerted interest in criminal practice and procedure than there is today. This means that there is much help available to you. Approximately twenty states have either revised within the past few years or are now in the process of revising their criminal practice and procedure rules. Thus, other states are encountering and have encountered some of the problems which you will encounter should you decide that you want to move into this area of

the law. There is help available to you from those who have already gone through it and are going through it now. This interest in the criminal law is what makes this an appropriate time to act.

Next, of course, would be the question: should we adopt the Federal Rules just as they are? If I were asked that question, I would say, "No, unquestionably no." The principal difference I have found between state and federal criminal practice is that it has been possible to raise a substantive question of constitutional law with a great more ease in the federal system than the state system, and that it is almost impossible to make the federal courts appreciate some of the procedural aspects of the trial of criminal cases which I deem to be important.

In Texas, for instance, until just recently if you wanted to raise a question involving a patently illegal search and seizure or a patently extorted confession, our court of criminal appeals would indulge against every conceivable presumption of law and fact rather than meet the issue. At the same time, if the name of the county was omitted in the indictment, that court would regard that as a vital error vitiating the entire indictment, thereby voiding the whole trial. There has to be some median ground between these two positions, and if you in Mississippi were asked tomorrow to adopt the federal rules in toto, I would suggest that you not do it.

The three principal unfairnesses in the Federal Rules of Criminal Procedure do not exist in Mississippi today, and I would consider it not only an insult to you, but also to your clients in the future to suggest that you accept those mistakes. I am referring first to the unconscionable position on voir dire examination of jurors which exists in federal courts today, in which the lawyer can learn nothing about the vices or the virtues of the persons who are to adjudicate his client's case. In a recent federal court case in Houston, the judge did not allow any voir dire examination of the jurors. The trial ended in a mistrial because of an attempt to bribe that jury, and for that reason a full FBI investigation of all the jurors selected followed. One of the things the FBI investigation revealed was that one of the jurors belonged to a religious sect which does not believe in punishment imposed by man. Now, with all due respect to that man's religious views, he has no business sitting on a criminal jury. In every criminal prosecution there would have been a hung jury regardless of how much evidence was presented to convict him. So I say these mistakes on voir dire examination are prejudicial to both sides. Your present Mississippi law does not have this mistake, for your judge must permit examination.

A second unfairness in federal court is the lack of relief from prejudicial joinder. The accused ought to be entitled to relief from prejudicial joinder, because any of you who have heard these mass hearings in fed-

eral courts knows that there is no way to get relief for your client in this collective system of guilt which is inherent in the federal policy. You have in Mississippi today a mandatory severance of cases, and I would again not come to you asking you to change that.

The third unfairness is that federal courts permit, of course, an oral charge to the jury. In Mississippi you have a written charge, which the jurors must take with them and study. With this you can argue as lawyers representing the prosecution or the defense and say to the jury, "This is not Bill Walsh talking, this is Judge So and So. This is what he says the law is." You can satisfy them that at least you are not misleading them on the law. You have the written charge in Mississippi; I would not suggest you alter that procedure.

But we are here to discuss with you whether you should adopt rules in line with the Federal Rules, and I think that is an attractive suggestion. It is desirable that you not have to learn three or four different statutes or rules for problems generally similar in nature. There is a vast amount of information in the form of judicial studies in the federal courts and other studies of that kind. You will not be accepting an uninterpreted set of rules. You will know what you are adopting, for you can see the results already from these prior studies and decisions in the federal area.

But the Federal Rules do not go far enough in specifying the way in which many things must be done. A good example are the decisions of the Supreme Court ordering that the defendant must be advised that he need not make a statement and that he has the right to counsel and that he has the right to end the questioning whenever he wishes to stop. Whether you disagree with them or not, they are the law of the land today, and it is our problem to devise some means by which we can live with that law. It is our problem to devise some means by which the police can live with that law. There is nothing in the Federal Rules explaining how quickly a person should be brought before a magistrate. Of course it has been reached by judicial decisions, but they are not of help to the police. You in Mississippi have a Law Enforcement Academy which has just started and which is one of the most progressive steps taken in the country. You can teach some criminal law to these officers, but you cannot teach all that they need. They need some comparatively simple rules which can be published in a simple pamphlet and distributed so they can understand those rules. In Texas we anticipated this problem. The Texas State Bar petitioned the Legislature a year ago, and the bill was enacted into law in Texas, providing that the Justice Department make available a publication explaining to magistrates that they must advise the defendant of all these rights, and a record made. We now have an official record that

he has been advised of these rights and it is going to put a stop to false claims that the man was not told something. That is the kind of procedural advice that I think ought to be incorporated in the state code so as to eliminate problems rather than create them, and that is one of the reasons why I say that the Federal Rules do not go far enough.

The one serious mistake we made in Texas and the thing responsible for all that is wrong in our new code is that we did not properly study the drafting. There is one and only one way I am convinced to do this and that is paying reporters for the drafting committee, whether it be a legislature committee or a Bar committee. I do not mean court reporters to take things down verbatim; I mean people skilled in the law, principally professors because it is easier to use them than lawyers with their busy schedules. It is necessary to have some money to pay somebody to watch out for all those things that creep into a major drafting effort. It is necessary to have money from somewhere to be able to circularize to the Bar the changes which you propose to recommend. I think it is almost an insult to the Bar to do what we did in Texas, which was to promulgate a huge mimeographed legal document about two inches thick, single spaced, simply setting forth what the new code was going to be. It is virtually impossible to let the Bar as a whole participate in criticizing such a document before submitting it to the legislature, because the average lawyer just does not have the time to check a document like that which has no notes, no comments, no observations as to why the changes are being made. That is just not the way to do it. You all have seen the way recent amendments have been made to the Federal Rules. Drafts were printed in the Federal Reporter advance sheets that clearly showed what changes were being made and the reasons for those changes, and this is recommended. That is the way you should do it, but you need circularization of the Bar and you need a paid staff. Now, that money is available somewhere. You can get it by legislative appropriation. As I understand it, they did that in Alabama and that is a desirable way of doing it. But I am also certain there is foundation money available if you seek it out.

One of the reasons we are sometimes reluctant to change our existing procedure is that it is convenient for us to go along with what we already know. But we already have a new code. You have a new code in Mississippi today based on the decisions of the United States Supreme Court, which affects day to day procedure. Rather than have the unwritten code dependent upon interpretation of the state and federal courts, which are not necessarily immediately available, it would be better to implement that new code by specific practices which you understand, which you think are acceptable and suitable

for your local conditions. There is discernible certainty in this room, both from defense and prosecution standpoint, and I think you would find yourselves more satisfied if you have organized effort to adopt uniform statewide rules which take into consideration these things in the law which we have to face, whether we like it or not.

Mr. Pyle then introduced the second speaker, Mr. James J. Carter of Montgomery, Alabama, who delivered the following address.

CIVIL RULES OF PRACTICE AND PROCEDURE

James J. Carter

The efficiency of the machinery of justice is in large measure geared to procedural rules. It is obvious to anyone familiar with the administration of justice that without the formalities of the law of procedure there would exist so much confusion in the courts that they could not even begin to do, with any degree of competency or efficiency, the work for which they are established. Sound substantive law cannot be given life in the courts without effective procedural rules that chart the route to be followed to the destination—applied justice.

Your concern today is whether there should be adopted for Mississippi courts rules of practice and procedure in line with the Federal Rules of Civil Procedure. Far be it from me, an Alabama lawyer, to presume to tell you in Mississippi what you should do. I claim no competency to tell you what, if anything, is wrong with your procedure, but as a lawyer who for more than thirty years has practiced in a sister state which has a modified system of common law pleading, some code pleading, and has appropriated to its use some of the now-proven procedures of the Federal Rules, and as one who has been connected with and practiced in the federal courts since the adoption of the new Federal Rules of Civil Procedure in 1938, I will presume to tell you what I think is good in the Federal Rules, and how, I think, we may learn and profit from them in state procedure.

In Alabama the 1955 Legislature took a bold step toward the first planned approach and study of our procedural system in over 100 years. A Commission for Judicial Reform, of which I had the honor to be a member, was established and appropriately financed. For more than eighteen months we worked to bring forth proposed Alabama Rules of Civil Procedure. From experience we knew that the Federal Rules of Civil Procedure had worked well and had earned the general acceptance of the bench and bar.

We attempted to formulate Alabama Rules of Practice and Procedure which would fit in with our practice and incorporate as far

as advisable, by "intelligent adaptation," the Federal Rules of Civil Procedure. Our work accomplished, we submitted the "Final Draft" of our proposed rules and report to the Alabama Legislature.¹ They were approved by the House of Representatives and sent to the Senate where they never came to a final vote, opposition against change being vociferous. The opposition tagged the proposal "Federal Rules," and asserted that every Alabama lawyer would have to forget all he knew about procedure, buy a lot of new books, and educate himself all over again. Looking back, it would seem that while the Commission had done a careful and workmanlike job, the presentation in the Legislature was not as carefully planned and approached. The package deal was lost, but in the process sentiment was awakened for reform, and from time to time various of the procedural improvements set forth in the Federal Rules have by statute been assimilated into Alabama practice. For example, Act 375 of 1955, title 7, section 474(1)-(18), Code of Alabama, as to deposition practice, was taken directly from the Federal Rules but superimposed upon our existing discovery procedures, which were in large measure similar to yours in Mississippi. This piecemeal adaptation has been the beginning of the most dramatic change for the good in procedure that has occurred in my state in the last thirty years.

I am convinced that the rule-making power should rest in the supreme court of the state and not in the legislature where it often occurs that changes are proposed, and sometimes passed, because some lawyer-legislator lost a case and attributed his loss to some existing rule. I am also convinced that piecemeal procedural changes are not the best approach, and that, since substance and procedure go hand in hand, a full study of the whole procedural picture of a state should be made, so that changes will fit into the whole pattern with one, complete, intermeshed, and non-conflicting set of procedural rules. The Federal Rules are the end product of extensive study and are not and actually never were "new," for they are "actually the distillation of the best to be found in the Federal Equity Rules of 1912, in the English procedure, and in Codes of Civil Procedure throughout the country."²

The Federal Rules are indeed a model system of modern pleading and practice which have been used for nearly thirty years with surprising success and little difficulty. They constitute a proven source and guide for state procedural reform, and many states have so used them. It would be a mistake, however, to think that they can be picked up bodily and totally appropriated for state practice and there-

¹Skinner, *Alabama's Approach to a Modern System of Pleading and Practice*, 20 F.R.D. 119 (1957).

²*Id.* at 120.

by solve all problems and meet all needs. Some of the rules do not apply to or fit in with state requirements, and some particular and special fields and peculiar state needs may not be covered by them at all.

Wherein lies the excellence of the Federal Rules of Civil Procedure?

The first rule makes it clear that the policy of the Rules is to secure "the just, speedy, and inexpensive determination of every action." The procedural differences between the law and equity are abolished. Distinctions between forms of action do not exist and there is but one form of action known as a "civil action,"³ which is "commenced" by filing a complaint with the court.⁴

Rule 4 providing for process sets out the procedures, in simple form, for issuance and service of process. This rule, however, is illustrative of the observation that the Rules may not be bodily adopted into state rules, for the rule provides for process in accordance with state and other special statutes. Any state rule on process should be drafted to conform to familiar practices and statutes, with particular reference to special provisions, such as those provided for substituted service on non-resident motor vehicle operators and non-resident persons and corporations doing business or performing acts within the state.

Clear and simple procedure for the service and filing of pleadings, orders, and other papers is spelled out in Rule 5; and computation of time is covered by Rule 6.

The rules pertaining to pleadings and motions, Rules 7 through 15, clearly and efficiently abrogate the archaic niceties of common law pleading, to which so many of us have devoted so much time and actually accomplished so little in the quest of justice. When the Federal Rules were proposed, and for some years thereafter, critics asserted that under the Rules pleading had been practically abolished and that an action could be commenced by "writing a letter" to the judge. This, of course, was over-simplification, and time has shown that incompetent and inept lawyers have gained no real advantage by the simplified rules of pleading. Rigid, sometimes senseless, formalism is no more, and the time formerly wasted on non-essential elements of pleading may be used by the lawyer on the real substance involved in litigation. Court calendars need not be further congested while judges occupy themselves with determining whether every pleading from complaint, to demurrer, to plea, to demurrer, to replication, joinder, surrejoinder, rebutter, to surrebutter, ad infinitum, have every "i" dotted and every "t" crossed.

The Rules provide for a complaint and an answer, and if there is

³FED. R. CIV. P. 2.

⁴FED. R. CIV. P. 3.

a counterclaim, a reply thereto. Demurrers, pleas, and exceptions for insufficiency of a pleading are not used. Still, however, on motion or as a defense, a claim may be dismissed, but this only if it appears that on no theory and on no state of facts that may be proved in support of the allegations is it possible for the pleader to prevail. The complaint should give a short and plain statement of the claim, showing the pleader is entitled to the relief, and a demand for judgment or relief to which he deems himself entitled. Free joinder of parties, alternative pleading, and demands for relief are allowed. Defenses by way of answer are also to be simply stated. Defenses, such as *res judicata*, contributory negligence, duress, estoppel, release, statute of frauds, statute of limitation, waiver, and any other matter constituting an avoidance or affirmative defense, should be set up in the responsive pleading. But no longer need the practitioner worry about the niceties of that pleading, or be concerned whether his pleading is in the form of a plea in abatement, a plea in bar, or whether it should be a verified or unverified plea. All pleadings are to be construed so as to do substantial justice. Such matters as are required to be pleaded specially are delineated in Rule 9. And except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit.⁵

Every defense may be incorporated in the answer or responsive pleading, and no defense or objection is waived by its joinder with other defenses or objections in a responsive pleading or motion. Certain defenses which may in the initial stage prove fatal to an action, or to its proceeding at that stage, may at the option of the pleader be presented by motion—for example, lack of jurisdiction of the person or subject matter, improper venue, insufficiency of process or its service, failure to state a claim on which relief can be granted, failure to join an indispensable party. These motions can be disposed of promptly. Quibbling over pleading is substantially extinguished, and the process of moving on to the decisive stage of litigation is accelerated.

Rule 13 provides for compulsory and permissive counterclaim. The compulsory counterclaim provision avoids a multiplicity of litigation and requires the settlement in one action of everything between the parties arising out of the same transaction or occurrence. For example, in my state, if you and I are involved in an automobile accident and you sue me for damages, that case may proceed to judgment. If you fail to get a judgment against me, I may then file a separate suit against you, since the first case has only decided that you cannot recover against me. Everything between us arising out of that occurrence should have been decided by one action, one trial, and one judgment.

⁵FED. R. CIV. P. 11.

The Rules provide, with appropriate safeguards, for the bringing in of third parties; for amendments to pleadings; and for supplemental pleadings.

A pre-trial procedure is provided for in Rule 16, whereby at an informal conference of the lawyers before the court, the issues may be refined and narrowed, and contentions clarified and simplified. The order entered by the court following the pre-trial conference becomes the outline or blue-print of the trial upon which each side may rely with confidence.

To discuss the rules pertaining to parties, joinder of claims and remedies, necessary and permissive joinder, misjoinder and non-joinder, interpleader, class actions, intervention, substitution of parties, the preservation of the jury trial, trial by jury or the court, assignment of cases for trial, voluntary and involuntary dismissals, consolidations or separate trials, evidence, jurors, exceptions, jury instructions, directed verdict practice, judgments non obstante, findings and conclusions by the court, summary judgment, new trials, special proceedings, and others, would unduly prolong my remarks and leave no time for me to discuss the deposition and discovery procedures which have had such wide acceptance and beneficial impact upon the preparation and trial of cases.

I observe that the Mississippi Code discovery procedures concerning depositions (section 1699 and following) and interrogatories (section 1712) are similar to, and as restrictive and limited as Alabama procedures were prior to the time in 1955 when there was superimposed upon our discovery deposition practice the procedure for the examination of parties and witnesses, both at law and in equity, set forth in Rule 30 of the Federal Rules.⁶

Prior to our adoption of the new deposition procedure, depositions were seldom taken or used. While interrogatories to parties were often propounded, the results were usually not worth the effort.

The result has been with us that in practically every case where the claim or exposure is substantial, lawyers both for plaintiffs and defendants take the depositions of the opposing party or parties. More than ten years of experience with the new deposition procedure in our state practice has proved its worth over and over again, and we in Alabama just would not go back to the old restrictive deposition and interrogatory practice. We have learned from experience that after we have availed ourselves of the discovery tools, more cases than ever before are satisfactorily settled on terms that are fair and reasonable and which our clients understand.

⁶ALA. CODE tit. 7, § 474(1) (1958).

In Alabama we do not have all the desirable discovery rules available, but I hope it will not be long before we do. For example, the rule providing for Requests for Admissions of Fact and Genuineness of Documents, Rule 36, has worked well in federal practice and could work well in state procedure. Some facts which are provable without question may require considerable trouble and expense to prove. Facts and documents which are not in good faith disputable should be admitted if their truth or genuineness is within the knowledge of a party or readily available to him. Admissions eliminate much expense, preparation, and trial time. Failure to admit things that should have been admitted may result in a court order requiring the party to pay the reasonable expenses, including attorney's fees, incurred in making the proof.

It is a rare case, indeed, when the deposition of an opposing party will not be of help, either in learning new facts or at least in giving the lawyer a better feel of the case. How important it is to look the opposing party in the eye and see how he responds to questions and observe just what kind of impression you think he will make at a trial. At the deposition you may observe important physical characteristics of the opposing party, who otherwise you might never see until the case was in trial. In considering settlements in cases of clear liability, a defendant's counsel can better advise his client if he sees first-hand whether, for example, the alleged scars are prominent or disfiguring, whether the claimant really has a decided limp as you observe him coming across the street to the place where the deposition is to be taken. Is your opposing party well-spoken, well-mannered, subject to lose his temper? How does he or she dress? The possibilities for examination and observation are almost unlimited. Information is often discovered or observed that is not mentioned in the files or reports.

Rule 34 for the production of documents and other items for inspection, copying, or photographing, on good cause shown, is substantially the same as your statute, section 1659, Code of Mississippi.

After 1938 when the Federal Rules became effective, it became apparent to lawyers throughout the country who practiced in both the federal and state courts that, generally speaking, there existed a better pleading practice, a better pre-trial, more adequate and efficient discovery, and a better trial procedure in the United States District Court than in the corresponding state courts. With passage of the years and the expanding of our economy, more and more lawyers found themselves practicing in federal courts, and the difference in procedure impressed them. As a result of this, and the favorable experience with the Rules, there has been a marked improvement in procedure in practically all state jurisdictions; and many, many states have revised their rules of

practice, using the Federal Rules as a guide or pattern. None to my knowledge have regretted the change or turned back to the old, inglorious, procedural past.

As I have done in my bar, and to my Legislature, I recommend that you take a good look at the Federal Rules. There may be in them much that in the interest of justice and administration you may want to use in your state practice.

Mr. Pyle then introduced the third and final speaker on the panel, Mr. John P. Frank of Phoenix, Arizona, who delivered the following address.

ARIZONA'S LONG EXPERIENCE WITH THIS PROBLEM

John P. Frank

Arizona has become the state most recognized as using the Federal Rules of Civil Procedure for the state practice. The Federal Rules became effective nationally on September 16, 1938. They went into effect in Arizona, the first state to adopt them, on January 1, 1940. Amendments were adopted to the Federal Rules in 1946 and 1948. Most of those amendments had become effective in Arizona by 1949, although the amendments to one major rule were not adopted until 1961.¹

In 1955, various amendments were proposed by the federal rules committee which Arizona in some instances accepted before they were accepted by the United States Supreme Court, so that for a short while the rules were not in complete accord. Amendments to the Federal Rules of 1961 and 1963 became effective in Arizona within a few months of their federal adoption. In 1966, the federal amendments become effective on July 1, and while the Arizona Supreme Court has not yet acted, it is probable that the state amendments will take effect less than ninety days thereafter. No other state comes close to this degree of almost instant parallelism. Following the Rules has become a habit in Arizona. It is a habit we like. We are satisfied not only that we have uniform rules, but also that we have good rules. We are satisfied, too, that we are keeping our state in the vanguard of the improvement of justice, that we are doing as much as we can to make our procedures serve businesses and our people.

You have invited me to join you here because you are yourselves considering taking a long step forward. It is not fitting for an outsider to tell you how to run your business, and I have no pretensions of being able to do so; indeed, I do not know what your procedures are. But I can welcome you to the great enterprise of attempting to make your

¹Compare FED. R. CIV. P. 60(b), with ARIZ. RULES 60(c).

courts and your procedures current with what I hope is the best thought of our profession. You will find in doing this the zest and excitement of real accomplishment and of real public service. As you contemplate these steps, I express only the hope that you take long steps and that you not knit and patch. I remind you of the observations of the late Judge Charles E. Clark, the moving spirit of the original Federal Rules, that "half-hearted reform is worse than none at all—having all the vices of novelty and none of the virtues of lasting improvement." He expressed the hope that there may be, through combined state and federal action, "a united approach to the real ideal of a uniform and natural procedure for courts, both federal and state."²

I. BACKGROUND

From the very beginning, Arizona's pattern of coordination with the Federal Rules has been the work of the Arizona State Bar. The State Bar led the way in 1937 to the adoption of a statute giving the Arizona Supreme Court the power to issue rules, with a plan for adoption of the Federal Rules specifically in mind. At a State Bar meeting in 1937, the subject was debated and the three main factors then advanced for the rules are still equally applicable.

1. There was a respect for the Supreme Court as a leader in rule-making.

2. The Federal Rules were the product of very substantial work, with active participation of the lawyers of the country in the making of the rules. The Arizona Bar believed that while it could doubtless make different rules, they were unlikely to be better rules; it respected the judgment of lawyers nationally.

3. What was held then and ever since to be the most important reason of all was that "Arizona procedure would harmonize with the Federal; lawyers practicing before the state courts would be governed by the same rules and, when practicing before any federal court in the United States they could walk into the courtroom and feel at home."³

After the 1937 Bar meeting, the matter moved on for negotiation and discussion between the Arizona Supreme Court and the Bar itself. The upshot was the adoption of a rule-making statute in 1939. The objections to such a statute will have a familiar ring in Mississippi. The argument was first that no new system was necessary; second, that the courts had their own inherent power of rule-making and no legislation was required; and third, that there was no gain or utility in using the federal system. The historian of the subject tells us that "there was a

²CLARK, *Two Decades of the Federal Rules*, 58 COLUM. L. REV. 435 (1958), in *PROCEDURE—THE HANDMAID OF JUSTICE* 85, 98 (Wright & Reasoner ed. 1965).

³Allan, *The New Rules in Arizona*, 16 F.R.D. 183, 184 (1955).

more selfish reason that was not too widely publicized but which nevertheless motivated some of the opposition"—and this was that experienced federal attorneys saw some advantage in keeping the inexperienced out of the federal courts.

The original system contemplated an official advisory committee to the supreme court to be appointed by the Board of Governors of the State Bar. In one fashion or another there has been a state committee on procedure ever since. Nonetheless, the court has not divorced itself from interest in the matter. In June of 1939 the state procedure committee and the supreme court met to consider the contemplated Federal Rules as adapted to Arizona. On June 22, 1966, there will be a similar meeting of the State Bar committee on procedure and the supreme court, this time to consider the current amendments. That first meeting in 1939 had been comprehensively prepared, and it has been the tradition of the State Bar committee in recent years to insure that thorough preparation is made before any discussion.

The original impetus was for a uniform system, and at the 1939 meeting and since, this was the dominant impulse. On the other hand, there always has to be balanced against the impulse for uniformity the impulse to make an exception here and another there. Some of those factors existed in 1939, when the original Arizona Rule 58 on judgments was somewhat different from the Federal Rule 58 on judgments. I pause with this rule for the sake of emphasis, for there have been other differences between the Arizona Rule 58 and the Federal Rule 58, although in this respect Arizona led the way to the contemporary practice. In 1961 Arizona adopted the system of requiring a written judgment in every instance, and the federal government did not adopt an essentially similar system until 1963. What is important about the episode is the recognition that the rules need to be virtually uniform but that there may still remain some local matters which can be different. The problems of a clerk's office in a small county are so different from those of a federal court in a great city that even the strongest advocate of uniformity would not doubt that some reasonable distinctions might be made. There were other trifling differences, but basically Arizona adopted and has held to a uniform system.

II. ARIZONA'S RULE-MAKING PROCEDURE: THE BAR COMMITTEE AND THE SUPREME COURT

A. The Bar Committee

The Arizona tradition from the beginning has been that the first responsibility for rule-making is on the Bar. The organized Bar has a job to do. The court expects it to perform that job conscientiously and

well, and then respects its product. The essential institution thus becomes the civil procedure committee of the State Bar, which in turn reports to the Bar's Board of Governors.

The three essential ingredients of a good State Bar committee on procedure are: first, a capable, working chairman; second, a committee of diverse experience; and third, a committee whose members have strong convictions, but convictions which they can subordinate to common conclusions. From its original moving spirit, Mr. Norman Hull, the committee has consistently had good leadership from just such chairmen as were required.⁴ The composition of the committee has included trial judges chosen with exceptional good judgment by the president of the State Bar for their very substantial litigation experience, along with attorneys representing the various regions of the state and various branches of the practice. The committee must be a working committee, and the Arizona committee is. It meets for several all day sessions in the course of each year under a system in which the chairman assigns the preparation of materials to various members of the committee. These, hopefully, are distributed in advance. But above every other value, the committee must be composed of persons who have the capacity to debate strenuously and then move to something else without hard feelings. For years the Arizona committee has conditioned itself by following a principle that it would not recommend any substantial change without virtually unanimous agreement. No important matter is ever decided by a close vote; no majority is that desirous of pressing its opinions upon the minority.

While this discussion is essentially on the relation of the Federal Rules to the state rules, this must not obscure the fact that the Arizona procedure committee has other matters to consider. There are what might be regarded as detailed local rules, for example, which go beyond the Federal Rules and with which the details of the Federal Rules do not deal. For example, the Arizona committee presently has pending for decision certain matters of mandamus or other special writ procedures; it is considering a special rule on receiverships; it will consider next year a rule on how to enter a remittitur order and what to do with it thereafter. It prepared at the request of the Arizona federal judges pending rules of practice for the local federal courts. The Federal Rules adjustments are thus only a part, though an important part, of the total work of the committee.

Arizona is always first in adopting its own edition of the Federal Rules because the State Bar committee parallels its rules work at the same time as the federal committee. In every current instance, the

⁴The current chairman is Mr. Richard Briney of Tuscon, and his predecessor for some years was Mr. Sam Langerman of Phoenix, followed by Mr. John Westover.

Arizona Bar has finished its work on the rules before the Federal Rules become effective. Since the Federal Rules must lie on the table of Congress for a time before they take effect, there is always at least this time to finish the state work.

As the basic step, the State Bar committee completes its draft of the rules changes. This includes State Bar "Committee Notes" for each rule. These notes may only incorporate the federal note, sometimes by reference; but if there is any Arizona law on the particular subject, then the State Bar note shows the relation of the newly changed rule to the existing pattern of Arizona law. The notes may be utilized for very important points of interpretation. For example, Federal Rule 65 on injunctions is currently being stiffened to make promiscuous temporary restraining orders issued without notice less frequent. But in the federal system there are no domestic relations cases. The Arizona Bar therefore adopted the Federal Rule, but appointed a special subcommittee on the injunctions in domestic relations cases and then put into its note a very carefully considered sentence recommended by that subcommittee.

The State Bar committee seeks to have its rules and notes ready at such time that when the Supreme Court issues the Federal Rules and sends them to Congress, the Bar committee can be equally ready to send its rules to the Board of Governors of the State Bar. On some occasions it has been possible to make the changes available for consideration by the entire Bar.⁵ Traditionally, the Board of Governors always has a minimum of a month in which to consider rules. If time permits, they are introduced at the Board at one meeting and then tabled until the next. Thereafter, if the Board approves (and it has regularly done so) the rules go to the state supreme court.

B. Supreme Court Review and Publication

There are various attitudes which a supreme court can take toward the rule-making function, various attitudes which may distinguish one justice from another. In the United States Supreme Court, some Justices regard it as their duty actually personally to review the rules and take positions on them before they are issued. On the other hand, other Justices feel that this is a bar and committee function and that they should not be involved at all.

From the beginning, the Arizona Supreme Court has taken the view that it should participate in the process, take a keen interest in the work, and at the same time seek basically to give the Bar what the Bar reports that it needs. As noted above, the Bar committee met with

⁵This is principally through the cooperation of the Arizona Weekly Gazette, the Phoenix legal newspaper edited by Mr. Henry Kiel.

the supreme court for two days in 1939 before adopting the first rules; on June 22, 1966, the Bar committee will again meet with the court to consider the current changes, and there have been just such meetings in the past.

The basic policy problem confronting the supreme court has been whether, in obtaining the view of the Bar, it should consult independently among lawyers, or whether it should deal solely with the organs of the organized Bar. It has from the beginning concluded that the latter is the better approach. Thus in 1939, the court did circulate the rules to all the lawyers of the state, but this was essentially for their information rather than their comment. Inevitably some individuals wrote in to protest a certain rule, and the supreme court took the view that it would make no changes unless the State Bar by official action asked for it. It is unquestionably the view of the Arizona court at the present time that it will not diffuse the responsibility for rule-making; it is up to the State Bar to propose the rules and changes. If the rules work badly, the State Bar must recommend changes.

An important problem of publication remains to which the supreme court has been extremely sensitive. It is anxious that there be no changes about which every member of the Bar cannot be readily informed. The best way to achieve this result is to publish changes at such time that they can be included in the revisions to the pocket part of the state statutes. Hence, if the court, as expected, does issue the 1966 changes, it will make them effective at that time in the fall of 1966 by which all lawyers will have received their revised pocket parts. We would prefer to have not even a day in which the Arizona lawyer is practicing under different systems in the two courts, but the practical problems of notice will cause the sixty day or so delay this year.

III. THE PROBLEM OF UNIFORMITY

The Arizona rules and the Federal Rules are identical in perhaps ninety-five percent of the instances, but there are some differences. The differences are of three separate types.

First are the differences of inapplicability. There are some procedural provisions relevant to a federal system which have no application to the states at all. The provision, for example, for service of process in a hundred-mile area around metropolitan centers is a peculiarly federal arrangement. Many of the admiralty provisions have no real relevance to the states. Service upon representatives of the government may be very different in the two different systems.

Second are differences which go to administration. The appeals provisions of the two systems are not the same. The federal government has a thirty-day appeal period and Arizona has sixty. Arizona uses

something called an abstract record on appeal and the federal system does not. While there are similarities in the appeals systems, they are certainly not identical. Rule details which relate to operations of the clerks' offices may also be different.

Third are differences of heritage. When the Arizona system was adopted, numerous previously existing procedural statutes were carried forward into the rules. These for the most part do not conflict with the federal system, but they may supplement it and at times they may be wildly anachronistic. We have a leftover rule, for example, concerning the proof of law of another state, which I trust will soon be removed.⁶

Yet our overwhelming bias is for uniformity. In most of the rules areas, this is perfectly possible. The provisions on parties, the provisions on discovery, the provisions on summary judgment, the provisions on pleadings can all be absolutely identical. Both our bench and our Bar have the strongest desire that they be so.

Our desire for uniformity is brought to the acid test when we reach a proposed federal amendment which we do not want and which, if we were making a decision of our own without regard to uniformity, we would never adopt. For certain reasons, Arizona has had little to complain of by way of rule changes which it would regard as undesirable. Nonetheless, the 1966 amendment of Rule 19, considerably altering the language of the rule on indispensable parties, and a certain portion of Rule 23 on class actions, was highly objectionable to Arizona, whose committee unanimously voted to oppose each of these changes in the Federal Rules. This was not merely an Arizona view; it was also a general Western view, and the procedure committee of the Ninth Circuit had roughly the same attitude. Neither provision is of cosmic importance. Nonetheless, the Westerners did feel that these changes were undesirable and opposed them.

We were thus faced with the difficult point: would we rather be uniform than be right? The issue was comprehensively debated within the procedure committee this year, and the almost unanimous conclusion was reached that we preferred uniformity to having our own way even about our own rules. We are adopting the Rule 19 and the Rule 23 changes because, more than anything else, we want one procedural system.

In the current 1966 changes, which are very many, the Arizona Bar has recommended to its supreme court only three deliberate changes. We have provided for a slightly broader right of intervention than does the federal rule, we have made an extremely minor change concerning

⁶ARIZ. RULES 44(d).

third party practice, and we changed one word in Rule 65 on injunctions in the interest of greater clarity. We made one other editorial change which is intended to have no content consequence at all. Otherwise we are completely uniform. Even these minor changes were criticized by thoughtful members of the Board of Governors, and each individual one will have to be justified, if it can be, to the state supreme court. Even these variations are the first non-uniform provisions we have adopted in the past five years. While I supported each of them in the committee, my present and second thought is that I was probably wrong. We do want the most perfect uniformity we can achieve.

What are the values of uniformity as we see them? Why do we cherish uniformity so warmly that, in order to obtain it, we will take even a rule which on its own merits we do not like? The answers are several.

1. We no longer have the problem of transition. Most of our Bar has never really known anything but uniformity. The hard point of adopting the federal system is in the first few years when old ways must be unlearned and new ones undertaken. We are long past this. I would estimate that approximately ninety per cent of the lawyers in Arizona have never practiced in Arizona under anything but the uniform system. Having had a virtually uniform system for over twenty-five years, we have for the most part never known anything else and we certainly cannot remember it. With you of Mississippi, the force of inertia is on the side of staying non-uniform. With us in Arizona, the force of inertia is on the side of uniformity.

2. We find it immensely convenient to have only one system with which to deal in both courthouses. On the rare instances when some difference occurs in practice, we find ourselves humiliated from not having expected it, or confused, or at a loss. It is a joy to be able to draft a motion for summary judgment or a complaint for an injunction without worrying about which court will hear it.

3. The uniform system gives us the benefit of national law and national text writers. Ours is a small state and a new one, with only a small body of case law. We find it a tremendous benefit to be able to use the great texts on procedure without difficulty. If we did not have a uniform system, we would have no readily available text book sources on procedure. A uniform system is, from the standpoint of authorities, infinitely easier to live with than any others. When one has a doubt, he can always pick up the annotations of 28 U.S.C. and use them for either legal system. We like this.

4. Of the utmost importance is a key reason why, almost thirty years ago, we adopted the Federal Rules in the first place. The federal system has a highly superior rules-making structure with its heirarchy of

committees. The federal system spends substantial sums for staff to do the necessary studies which must underlie any sound procedural change. The federal procedure budget is on the order of \$100,000 a year. In addition there can be foundation support for necessary studies on federal reforms. For example, the federal procedure committees were able to encourage the Ford Foundation to furnish funds for an invaluable study on the practicalities of discovery, conducted under the direction of Professor Maurice Rosenberg of Columbia University.

All this staff work and all these studies are essential for sound rule-making. Yet the materials must be handed to hardworking committees of well qualified persons to make decisions of policy. The federal committee structure draws men highly experienced in litigation and procedure from all over America.

We in Arizona have no feeling that we are taking advantage in utilizing that staff work and those committee studies and operations. All these things would be done for federal purposes anyway; there is no increase of cost because we take the benefit of the same work. In terms of plain dollars, Arizona cannot afford to do all of the work of the federal committees. For this reason Arizona does take full advantage of the national work in these areas.

5. The federal rules are usually good rules; we regard them as the best solutions on the merits for these problems.

From my standpoint, it could not possibly be worth it to have to keep two separate rules systems in mind at all times. I have never met any Arizona lawyer who does not want to continue the system of substantial uniformity.

IV. "CREATIVE FOLLOWERSHIP" OR HOW TO HAVE A SYSTEM BOTH SATISFACTORY AND UNIFORM

Arizona's decision for a uniform rules system by no means requires Arizona to accept whatever the federal rule-makers may wish to hand down. Once the Federal Civil Rules are established, it is Arizona's fixed policy to use the same rules. But the federal rule-making system has in it enough elasticity of procedure that Arizona can be heard where it is worth being heard, at the point of the making of the rules in the first place. Half our problem is to adapt our rules to changes in the Federal Rules; but the other half of our problem is to do what we can to insure that the Federal Rules as they are drafted are satisfactory to us.

The Federal Rules, after all, are not some edict of an alien power. The rule-making procedure is learned and it is efficient, but it is also in its own way democratic. We are part of the rule-making

system and we have our opportunity to be heard before the rules are made.

The federal rule-making procedure looks impossibly cumbersome, but it is in fact exceedingly simple. The basic work on Federal Rules is done by a series of advisory committees. One of these, the Advisory Committee on Civil Procedures, is a committee of about fifteen lawyers and judges, of which the chairman is Mr. Dean Acheson, who among his other distinctions is the head of one of America's great law firms. This committee includes lawyers from each part of the country, plus judges and law professors.

Once the committee concludes its work and makes a recommendation, the proposals go to a standing committee or central committee which superintends the work of the various procedural committees. Its jurisdiction includes not only the civil committee, but also the criminal committee, the admiralty committee, and so on. But this central committee does in fact make almost no changes in the work of the Advisory Committee. This does not mean that its members do not participate effectively—three of them, Judge Albert Maris of Philadelphia who is the real working head of all federal rule-making functions, Professor J. W. Moore of Moore's *Federal Practice*, and Professor Charles Alan Wright of *Barron & Holtzoff*, do customarily attend the meetings of the civil committee and participate in its discussions. From this central committee the rules go to the Judicial Conference of the United States which does as a practical matter approve them, and then to the Supreme Court which also as a practical matter approves them. It follows therefore that the center of the federal rules-making function is in the Advisory Committee.

There are two ways in which the Bar can be heard before the rules are made. First is a specialized system which we use in Arizona, but which I must confess is an eccentricity, resulting from the accidental circumstance that I happen to be a member of the Advisory Committee as well as a member of the Arizona committee. I make it my serious business to consult with my state committee and with other lawyers and judges in my state who are not on our state committee on all matters coming before the federal committee before I go to the federal committee meetings. We do this formally. I duplicate and distribute the federal materials sent to me in advance of meetings, and we have comprehensive meetings of the state committee and of others before I make up my mind as to how to vote. I am well aware that as a member of the federal committee I am not a representative of my state and must exercise my own independent judgment; and this I do. But the fact remains that, in good faith, my own independent judgment has substantially never conflicted with that of my fellow Arizona Bar members.

To the extent possible within the limits of time, I also consult in advance with Mr. J. E. Simpson of Los Angeles, a distinguished lawyer who is the head of the Ninth Circuit Committee on Procedure.

I had said earlier that this is an eccentric system. Clearly with a committee of about fifteen, not all states will have a member and, in any case, not all members will see fit to approach the matter in the quasi-representative capacity which appeals to me. Nonetheless Mississippi has Professor Wright of the University of Texas Law School, one of the most influential rule-makers in the country, readily at hand. I am confident that if the Mississippi Committee on Procedure had recommendations to make on federal rules as they were being formed, your neighbor Professor Wright would be certain to see that they are presented to the federal committee. I can only say that this system works excellently from our standpoint. Obviously Arizona has not been satisfied with every detail of every rule which has been made in recent years; but we have been generally satisfied and there has been little to which we would strenuously object.

For illustration, the current work of the federal committee is to revise Rules 26 to 37 on discovery. This is probably the largest single necessity of procedural reform in the United States. We have had almost thirty years of experience on the federal discovery rules, and it is time to look at them to see if we can do that job better, more efficiently, and more economically. The Arizona Bar was very anxious for some changes in the discovery rules. It memorialized the federal committee to consider this question and to make changes. It has deliberately waited for several years until the federal committee should complete the studies. It is at least generally satisfied with the changes which now seem likely to be made.

What I have just described is a system of almost informal participation which results in part from the sheer accident that a state has a member on the committee. But there is built into the federal rule-making system a whole elaborate machinery to be certain that every state has the opportunity of participating in rule-making. I had said that the work is done basically in the Advisory Committee and that its work goes from the Advisory Committee to a central committee. But it does not go directly or without interruption. After the Advisory Committee has tentatively finished its work, its proposals go to the entire United States, to the bar of every state. There the proposals are before the bar for as long as need be. Judge Maris has recently recommended that when the work on the discovery rules is finished in the Advisory Committee this fall, the proposals should go to the bar of the country for consideration for perhaps as long as two full years. This is because the discovery changes are so important that every state

and every judicial conference should have the opportunity to examine the proposals closely and to make recommendations concerning them.

It is at this point that every state can, if it will, do an effective and important job. On the last set of rules, those which became effective in 1966, I must confess that I was profoundly disappointed by the extent of the bar response. The Ninth Circuit Conference and the American College of Trial Lawyers did do a serious and systematic review, and some local groups did as well. Very few other parts of the country gave the proposals sufficient attention. Even if Mississippi does not adopt the Federal Rules for its own, it is surely going to be affected by any changes of the Rules because of the federal courts in Mississippi. Yet I do not recall that in the 1963 or 1966 amendments the Civil Rules committee had any communication whatever directly from any portion of the organized Bar of Mississippi expressing its opinion on the changes.

I have said that we did not hear from the Bar "directly" because there is another method of participation by which you are heard indirectly. There is a standing committee in each of the federal circuits known as the Standing Committee on Federal Rules of Practice and Procedure which has the duty of receiving suggestions from members of the bench and bar. There is such a committee of approximately twelve persons in the Fifth Circuit. That committee has had representation from your bench, bar, and law schools. Mr. L. Arnold Pyle of Jackson has represented your Bar on that committee. It has met many times and discussed recommendations on these rules, and some of its recommendations were adopted.

On the last set of changes, the general bar silence was in part because most of those proposals were technical even in the light of the technicalities of procedure; they dealt with problems of parties which are the most complex part in the Rules. I have no doubt that when the discovery rules come out, they will receive the attention of thousands of responsible lawyers all over America.

All of the suggestions of the various bars come back to the Advisory Committee for a final revision of the rules before they go to the central committee. I can assure you from concrete personal experience that the suggestions of the bar are in fact scrupulously considered and that they have significant and effective weight. Very material changes were made in the 1966 rules, for example, because of bar reactions on the problem of shareholders and shareholders' suits. I most earnestly hope that your own procedure committee or the Fifth Circuit committee or both will systematically, comprehensively, and critically examine the work of the Advisory Committee as it comes out tentatively this fall.

Particularly, if you are going to adopt the Federal Rules for your own, you ought to get into the practice of helping to make them.

V. CONCLUSION

The real question before you is whether Mississippi would benefit from adopting the Federal Rules. I am hesitant to express a direct view on this because I am ignorant as to your own background and your own practice. I therefore simply tell you ours and leave you to come to your own conclusion.

However, in making your decision, you may wish to know the views of the Chief Justice of Arizona. I have written him telling him of my impending visit with you. He has responded as follows:

Dear Mr. Frank:

As the Chief Justice of the State which has made the most constant use of the federal rules, I am delighted to send greetings and good wishes to the Bar of Mississippi as it considers whether to make use of them, too. I am satisfied that we have benefited greatly from the use of the federal rules in our state. Partly this is because they are good rules. Partly it is because of the great benefits of uniformity. It has been a tremendous help to us to be able to draw on the national sources of materials both in the preparation of rules and in interpreting them.

I do believe that sound rules development depends absolutely on effective bar participation. Our own procedure committee has been diligent and useful and has earned the respectful attention of our Court by the service it has performed. I am satisfied that the best rules results are obtained by effective cooperation between the lawyers and the judges.

Please make clear that if we can be of any service to the judges or lawyers of Mississippi as they consider the problems of civil procedure, we will be happy to do so; and, meanwhile, we wish them well.

Yours very truly,
s/ Fred C. Struckmeyer, Jr.
Chief Justice
Supreme Court of Arizona

SECOND GENERAL ASSEMBLY

Saturday, June 18, at 9:30 a.m.

The second General Assembly was called to order by President Smith.

Mr. Joshua M. Morse III, Dean of the University of Mississippi

School of Law, then reported on the activities and accomplishments of the Law School during the past year, as well as plans for the future.

Mr. Lester Clark of Hattiesburg, Chairman of the Study Committee, reported on the status of the bills which had previously been recommended by the State Bar for enactment by the Mississippi Legislature.

Mr. Dan Shell of Jackson, Chairman of the Legislative Committee, enumerated the results of that committee's work with the state Legislature. Mr. E. K. Collins of Laurel, State Senator, then made general remarks concerning various bills which had been considered by the Legislature.

Mr. Hayes Callicutt of Jackson, Chairman of the Budget Committee, reported on the work of that committee.

Mr. Frank Riley of Tupelo reported for the Committee on Legal Aid to the Poor and offered a resolution proposed by the committee, which was duly adopted by the convention.

Mr. Parham H. Williams, Jr., of University, Chairman of the Public Defender Committee, presented the report of that committee, which was adopted by the convention.

Mr. James K. Child of Jackson reported for the Administrative Law Committee, and the report was adopted by the convention.

Miss Evelyn Gandy of Jackson, Chairman of the Resolutions Committee, presented the report for that committee. After one amendment, proposed by Mrs. Mary Libby Payne, the various resolutions were adopted by the convention.

Mr. William S. Henley of Hazlehurst then reported on the activities during the past year of the House of Delegates of the American Bar Association. Mr. N. S. Sweat, Jr., of Corinth nominated Mr. Hugh N. Clayton of New Albany to represent the Mississippi State Bar in the House of Delegates, and Mr. David Cottrell of Gulfport seconded the nomination. Mr. Clayton was elected by acclamation.

The next item of business was the election of officers. Mr. Hugh N. Clayton nominated Mr. N. W. Overstreet, Jr., of Jackson for the office of First Vice-President. Mr. Bruce Aultman of Hattiesburg seconded the nomination. Mr. Overstreet was elected by acclamation.

Mr. E. C. Ward of Natchez nominated Mr. B. B. McClendon, Jr., of Jackson for the office of Second Vice-President. Mr. McClendon was elected by acclamation.

President Smith then presented Mr. John T. Armstrong of Hazlehurst, President of the Mississippi State Bar for the coming year.

The following were elected to the Board of Bar Commissioners:

District 1—W. P. Mitchell, Tupelo

District 2—Eaton A. Lang, Jr., Gulfport

- District 3—Lester F. Sumners, New Albany
- District 4—Richard M. Allen, Indianola
- District 5—William D. Brooks, Kosciusko
- District 6—Clay B. Tucker, Woodville
- District 7—Warren V. Ludlam, Jr., Jackson
- District 8—Mrs. Mary Libby Payne, Brandon
- District 9—W. W. Ramsey, Vicksburg
- District 10—J. David Williams, Meridian
- District 11—Wm. P. Dulaney, Tunica
- District 12—Lester Clark, Hattiesburg
- District 13—Harris Sullivan, Jr., Mendenhall
- District 14—Julius L. Lotterhos, Hazlehurst
- District 15—J. P. Patterson, Monticello
- District 16—Robin Weaver, Columbus
- District 17—John W. Whitten, Jr., Sumner
- District 18—L. A. Pacific, Laurel
- District 19—Frank J. Hammond, Jr., Moss Point

The Sixty-First Annual Convention of the Mississippi State Bar adjourned *sine die*.

The following is a list of the past presidents of the Mississippi State Bar:

- 1906—G. H. Shands (deceased)
- 1906—Murray F. Smith (deceased)
- 1907—C. H. Alexander (deceased)
- 1908—J. S. Sexton (deceased)
- 1909—T. H. Somerville (deceased)
- 1910—W. H. Powell (deceased)
- 1911—A. F. Fox (deceased)
- 1912—R. N. Miller (deceased)
- 1913—Robert B. Mayes (deceased)
- 1914—Sydney Smith (deceased)
- 1915—R. B. Campbell (deceased)
- 1916—A. T. Stovall (deceased)
- 1917—A. A. Armistead (deceased)
- 1918—S. E. Travis (deceased)
- 1919—J. B. Harris (deceased)
- 1920—Gabe Jacobson (deceased)
- 1921—Geo. J. Leftwich (deceased)
- 1922—J. B. Holden (deceased)
- 1923—R. H. Thompson (deceased)
- 1924—Stone Deavours (deceased)

- 1925—J. N. Flowers (deceased)
- 1926—D. W. Houston (deceased)
- 1927—R. E. Wilbourn (deceased)
- 1928—George W. Currie
- 1929—T. C. Kimbrough (deceased)
- 1930—George H. Butler (deceased)
- 1931—W. W. Venable (deceased)
- 1932—Jeff Truly (deceased)
- 1933—J. H. Price (deceased)
- 1934—W. Calvin Wells (deceased)
- 1935—Frank E. Everett (deceased)
- 1936—David E. Crawley (deceased)
- 1937—Marion W. Reily (deceased)
- 1938—R. M. Kelly (deceased)
- 1939—W. H. Watkins (deceased)
- 1940—W. E. Morse
- 1941—Alexander Currie (deceased)
- 1942—Charles F. Engle (deceased)
- 1943—Ross R. Barnett
- 1944—Bidwell Adam
- 1945—Earle L. Wingo (deceased)
- 1946—R. C. Stovall
- 1947—Stokes V. Robertson, Sr.
(deceased)
- 1948—Phil Stone
- 1949—Robert W. Thompson, Jr.
- 1950—Gibson W. Witherspoon
- 1951—Quitman Ross
- 1952—Charles B. Snow (deceased)
- 1953—Jerome S. Hafter
- 1954—Robert J. Farley
- 1955—John C. Satterfield
- 1956—M. M. Roberts
- 1957—W. S. Henley
- 1958—Breed O. Mounger
- 1959—Hugh N. Clayton
- 1960—David Cottrell, Jr.
- 1961—Sherwood W. Wise
- 1962—C. Sidney Carlton (deceased)
- 1963—Edward J. Currie
- 1964—Earl T. Thomas
- 1965—Orma R. Smith

PROCEEDINGS OF THE THIRTIETH ANNUAL MEETING
OF THE

Junior Bar Section

Held at Jackson, Mississippi, June 16, 1966

The General Assembly of the Junior Bar Section was called to order at 2:00 p.m., June 16, 1966, in the Heidelberg Hotel at Jackson, Mississippi, by Mr. B. B. McClendon, Jr., President of the Junior Bar Section.

The invocation was delivered by Mr. James C. Pittman, Jr., of Greenwood.

President McClendon then introduced Mr. Sherman L. Muths, Jr., of Gulfport, who reported on the last annual meeting of the Young Lawyers Section of the American Bar Association.

An address of welcome was offered by Mr. George Sturm of Jackson, and was responded to by President McClendon.

President McClendon then delivered the President's Report on the activities of the Junior Bar during the past year.

Mr. Robert G. Barnett of Jackson, Chairman of the Lawyers Placement Service Committee, reported on the work of that committee.

Mr. E. E. Laird, Jr., of Jackson, Chairman of the Publications Committee, enumerated the results of that committee's activities.

Mr. E. C. Ward of Natchez then introduced Mr. William W. Falsgraf of Cleveland, Ohio, Chairman-Elect of the Young Lawyers Section of the American Bar Association, who addressed the convention on the topic "Your Role in the ABA."

The next order of business was the election of officers, and the following officers were duly elected:

Edward P. Connell, Clarksdale, President.

Robert G. Barnett, Jackson, Vice-President.

Pat H. Scanlon, Jackson, Secretary

Directors:

Northern District

Frank O. Crosthwait, Jr., Indianola.

B. G. Perry, Horn Lake.

John P. Fox, Houston.

Central District

William H. Cox, Jr., Jackson.

Donald B. Morrison, Jackson.
W. Thad Cochran, Jackson.

Southern District

Raymond L. Brown, Pascagoula.
Robert Khayat, Pascagoula.
Ben Stone, Gulfport.

Mr. Frank Riley of Tupelo then introduced Mr. William L. Waller of Jackson, District Attorney for the Seventh Circuit Court District, who delivered the following address.

THE FUNDAMENTALS OF CRIMINAL PRACTICE

William L. Waller

Criminal law has become, as never before, a very vital subject and has probably had more drastic revision within the past five years than any other broad field of law. If there is one beginning to this drastic revision, the landmark case upon which it turns is *Gideon v. Wainwright*. You will recall that in that case the United States Supreme Court decided that all defendants in felony cases must have counsel. That decision has been expanded by subsequent Court decisions to require that each person charged with a felony be represented from that point at which an investigation becomes accusatory and more than merely investigatory. The mechanical effect of *Gideon v. Wainwright* has been to slow the processes of the court so that four appearances in court are now required to accomplish the same result of one appearance formerly.

Because of *Gideon v. Wainwright* and resultant decisions across the United States, many lawyers who never before have practiced or appeared in criminal courts will now do so. These remarks are to emphasize that young lawyers must prepare themselves for criminal representation, particularly in counties with small bar membership. The Mississippi Legislature has enacted law to permit payment of a small sum from the county funds to appointed counsel. Several methods of appointment have been suggested. In Hinds County, an alphabetical list of the members of the bar is used for appointment purposes on a rotation basis. With some 1,000 felony cases a year in that jurisdiction, you can see that every lawyer there is going to have an opportunity to practice criminal law with some frequency. I am sure the same situation applies in all other jurisdictions. The old phrase "I do not practice criminal law" will no longer suffice. There is before the Legislature House Bill 2153 for the election of a public defender to hold office and be paid similarly to the office of the district attorney. This will be some relief, but not an absolution of the representation of criminal defendants by other lawyers on appointment. Each lawyer must readily and conscientiously accept his bounden duty to represent a defendant charged with a criminal offense, and do so as diligently as if it were his best paying client.

I am constantly amazed at the lack of knowledge and understanding

of so many members of our bar as to the actual and factual practicalities of criminal law. In the hope that these general remarks will give you some sense of orientation in the field, I tender them to you for your consideration.

To paraphrase the learned judge of the State of Michigan in his commentary on anatomy, let us look at the anatomy of a felony. There are perhaps ten basic elements in a felony matter from initiation to completion. They are:

1. Commission of Crime
2. Investigation
3. Arrest and Interrogation
4. Preliminary Hearings
5. Grand Jury
6. Indictment and Capias
7. Arraignment and Pleas
8. Pre-trial Motions
9. Trial
10. Appeal

First, and very basically, a crime must be committed. There are various types of crime, some of dire consequence and some of relatively minor consequence. A felony is one in which the possibility of imprisonment in the state penitentiary or the loss of life by the accused is a prescribed punishment. There are crimes against property, such as theft, burglary, forgery, false pretense, embezzlement, and what amounts to misappropriation. The other category of crime is that of crimes against individuals or crimes of violence, running the gamut from simple assault and battery to murder, rape, armed robbery, and the like. Upon the commission of either of these types of crime, an investigation is begun. Generally the investigation is based upon the description of the accused given by witnesses, the *modus operandi*, and/or the physical evidence found at the scene. You are familiar with all of this, either through work in your civil practice in tort fields or through watching the indomitable Perry Mason and his ilk on television. The investigation slowly but surely narrows the field of suspects, until finally an accusation and arrest is made and interrogation begins. At this point, the accusatory point, the question of representation of the accused by an attorney comes sharply into focus.

You are familiar with the recent and notorious *Escobedo*, *Mapp*, and other decisions. All of these decisions took place in jurisdictions other than Mississippi. All of the practices denounced by those cases have been denounced in the State of Mississippi; some for as much as forty years. This is not to say that there have not been abuses of good practice in this state. As long as men enforce the law, there will be some deviation from good practice in individual cases. The Supreme Court of Mississippi has, however, sharply delineated the methods, practices, and manner of obtaining confessions, conducting appearances before committing magistrates, communicating with attorneys and family, preventing physical abuse, and other like matters which are the subject matter of the recent decisions of notoriety. Common sense

and objective investigation are the proper guidelines. In any respect, it is imperative, under the recent emphasis on "individuals rights," for the defendant to be *fully* advised of his rights. It is often quite difficult for the police officer to convey fully to the defendant the full import of his rights, and as a consequence, attacks upon the confessions and other information received during the investigation are more easily made than defended. Of course, the habitual defendant more often than not knows his "rights" and how to plead violations of them more than the constable, deputy sheriff, or police officer who is conducting the investigation.

Once accusation is made and charge brought against the defendant, he must be brought before a committing magistrate at the earliest practical time for preliminary hearing. You ask, "what is the earliest practical time?" I would not attempt to define that phrase for you. I would say that a person cannot be held interminably without being advised of the charges brought against him, and an accused is entitled to early release on bond, when applicable. One reason for the hearing is to advise the defendant of the charge. The other aspect of this hearing is to determine whether bail is permissible, and, if so, in what amount. The state must develop only a small portion of the case at this point to determine if a crime has been committed and if it is probable that the defendant should be held to answer the charge. Contrary to the opinion of some lawyers who practice criminal law, I do not believe that the preliminary hearing is a place where discovery can be successfully made of the state's case. In my opinion, if a reasonable amount of bond can be settled upon with the judge, or prosecutor, and the propriety of the charge can be substantially believed by you as attorney, preliminary hearing should be waived. This is not to say that you should not insist upon a preliminary hearing when the presumption of guilt is so weak as to demand it. Experience and practical consideration are the only yardsticks of determining this point. But do not let inexperience over-influence your practical considerations. It is my opinion that time spent in preliminary hearing can be better utilized in "on the ground" investigation, in most instances.

Bail in most jurisdictions in Mississippi is extremely reasonable. In Hinds County, a crime against property usually results in a bail demand of \$1,000 per charge; and, for crimes of violence, increasingly greater amounts dependent upon the seriousness of the crime and the other factors. Some of these factors are the transient or intransient character of the defendant, his past record, and a calculated "guess-timate" of whether or not the defendant will appear to answer the charges of the grand jury when made. In the Seventh Circuit Court District, we attempt to set such a bond that will require the appearance of the defendant, but will not place an undue burden upon him or be a punitive imposition upon his family. Also we want to give the defendant opportunity to make bond and to pay his attorney. The amazing fact is, however, that most persons charged with crime have very little money when finally they appear in court. The old adage "easy come, easy go" must have been coined in criminal court.

In Mississippi, two types of bail are permissible. One type is a bond issued by a surety or insurance company authorized and qualified

by the state to engage in that business. The other is a bond executed by the defendant and two sureties in the state, both of whom have real property in the state of a sufficient value to permit levy of execution for the full amount on bond forfeiture, if such should occur.

The next feature in our anatomy of a felony is the grand jury's hearing. This usually occurs twice a year in most jurisdictions, but in some at least three times in that period. Many members of the bar have little understanding or knowledge of the function of the grand jury, which I am sure arises from lack of exposure. The grand jury is a body chosen in the same manner as a petit jury. No less than fifteen nor more than twenty men are drawn from the venire panel. A foreman is appointed, which as you know is not done for petit juries.

The grand jury inquires into the conduct of the county's business, and investigators and witnesses appear before the grand jury to give testimony on criminal charges. The defendant does not appear before the grand jury. Should a defendant appear before the grand jury, he is granted statutory immunity. An amazingly large number of lawyers and laymen believe that the defendant is required to appear and present his testimony to the grand jury. *This is not so.* The grand jury determines whether or not a person charged is implicated to the extent that trial before a petit jury is appropriate. This determination is not a finding of guilt, but is purely a statement to the circuit court that the person charged is in such relationship with the crime that a determination should be made as to his guilt or innocence. If the grand jury so finds, a true bill, or indictment, is issued by the grand jury and an order for the arrest of the person indicated is issued. The order is called a *capias*. It is the same thing as a warrant.

The indictment must contain certain basic elements: the jurisdiction; the venue; the date of the commission of the crime; the person charged; and the recitation of the nature of the crime for which the defendant stands charged, containing all of the elements of the charge and crime. The indictment must be signed by both the prosecuting attorney and the foreman of the grand jury. Should any of these elements be lacking, the indictment is subject to demurrer for legal insufficiency.

Upon the return of an indictment, the circuit clerk assigns it a number as with civil matters. He issues the *capias*, and docket and files the indictment. The *capias* is given to the sheriff who locates the defendant either personally or through his attorney or the bail bondsman. The *capias*, served as all other legal process, notifies the defendant when to appear for arraignment, or in the absence of existing bond, is warrant for the arrest of the defendant. A copy of the indictment is served on the defendant at the time he is served with the *capias*.

On the day set upon the face of the *capias*, the defendant is required to appear before the circuit court, at which time the indictment is read to the defendant. This procedure is called arraignment. The defendant, if he understands the indictment, then enters his plea, or he or his attorney can waive the reading of the indictment on arraignment and enter a plea. If the charge is a capital one, the defendant will not be arraigned in the absence of his attorney.

You have heard of the plea of *nolo contendere*. This plea is ac-

ceptable in a misdemeanor charge, but not when the defendant is charged with a felony. Should the defendant or his attorney, through inadvertence or mistake, enter a plea of *nolo contendere* to a felony charge, the court will direct the clerk to enter a plea of not guilty for the defendant. The three pleas permissible for a defendant charged with the commission of a felony are not guilty, guilty, or not guilty by virtue of insanity.

In the jurisdiction in which I serve, should the defendant enter a plea of guilty, the circuit judge will examine the case from reports given him by the law enforcement agency investigating the same, take into consideration the prior record, the family, the gravity of the crime, and the various other aspects of the situation, and render decision and judgment without recommendation of the district attorney. If the defendant enters a plea of not guilty, the case is set for trial. Should the attorney for the defendant desire a conference with the district attorney, conference is held and a negotiated settlement is more often than not agreed upon.

The last three elements in the anatomy of a felony are pre-trial motions, the trial, and appeal. Inasmuch as these are similar to like actions in civil matters, I will not discuss them in detail at this point.

Having dissected the anatomy of a felony in a rather general manner, I now move to some of the defensive procedures available. This commentary, of course, will not be all inclusive but merely observations from seven years practical experience. There is nothing quite like "bush shaking" and door knocking to discover appropriate defenses for the defendant. By so doing, you can, in most instances, acquire thorough knowledge of the crime which will better enable you to advise with the defendant. This will save you a great deal of anxiety in the preparation of your case, whether you try it or settle it. If you find the defenses few and the presumption great, negotiate.

After the indictment has been returned, several motions for production are available. You are entitled to a copy of any statement or confession given by the defendant, the name of joint or co-defendants, pictures of the crime scene, diagrams, and the like. Most prosecuting attorneys will obtain these for you, if you cannot obtain them directly from the police agency. The court will grant a motion for production in most cases, and the prosecuting attorney does not want any more court appearances on an individual case than are necessary. If you are unable to obtain the information to which you are entitled as defendant's attorney, move for its production.

The indictment, as outlined above under the anatomy of a felony, is simply the statement wherein the allegations of the commission of crime are set forth with particularity and in legal terms. If the indictment lacks any of the elements which it must contain by law, attack it by demurrer. When the indictment fails for factual reasons, the appropriate procedure is a motion to quash. Motions to quash cover a multitude of sins. Among the many reasons for a motion to quash are:

1. Illegality of search or arrest or lack of warrant.
2. Lack of venue
3. Failure to charge crime

4. Immunity
5. Double jeopardy
6. Lack of jurisdiction
7. Incapacity on the part of the defendant to commit crime
8. Incapacity on the part of the defendant to defend himself
9. Prosecution barred by the statute of limitations
10. The unconstitutionality of the statute

This is not an all encompassing list but recited to illustrate the scope and breadth of motions to quash.

Should your client be charged with a capital crime, he is entitled to special venire drawn over and beyond that which is drawn for the week. A motion for special venire must be made at the time of setting of the case for trial and permitting sufficient time in which the venire can be called.

Habeas corpus hearings have been used by attorneys for discovery purposes, but for the same reasons recited as to the preliminary hearing, in my opinion, it is not the most appropriate method of obtaining discovery of information. A proceeding on habeas corpus is to determine whether or not the defendant is being legally detained; and very often, the writ is issued to determine the propriety of the amount of bail prescribed by the committing magistrate. The writ of habeas corpus is generally issued by the next succeeding superior court. It is not used for the purposes of obtaining a new trial or release with prejudice.

Intensive investigation of the facts should not be limited entirely to the facts surrounding the commission of the crime. Your investigation should include, in as much detail as possible, probing into the conduct of the case from investigation through indictment. Any failing in legal technicality which can be brought to light is as effective in the defense of your client as a favorable eyewitness to the crime. You may not be able to obtain acquittal or release of your client, but you can certainly use shortcomings in legal technicalities to great effect in the mitigation of sentence. Of course, in some instances you can secure the release of your client. The other advantage of intensive investigation is that you acquire an intimate and working knowledge of your case which will greatly assist you in attempting to negotiate settlement in the event that is appropriate, or will enable you to prepare better for all of the naunces of the case developed during trial. It will surprise you, as you engage in criminal practice, the frequency with which startling bits of information will fall from the mouths of the witnesses, which either make or break your case. Criminal trials are in no respects similar to civil trials in the frequency of occurrence of this type situation.

Having fully investigated the matter, both legally and factually, you should then consider your defendant's position in a practical light. Determine whether a trial or a negotiation is to his best advantage. You must consider the probability of his guilt, the defenses, and his prior record. Particularly, you must take into consideration the prior record of commission of crimes of similar type and nature. Often a defendant who has refused a negotiated settlement of two or three years in the state penitentiary has that amount of time doubled or

tripled upon conviction. This consideration must always be kept before you in determining whether or not your client should run the risk of trial.

Our society has advanced tremendously from the concept of Hammurabi and the "eye for an eye and tooth for a tooth." The defendant charged with the commission of a felony must face the possibility of penitentiary sentence, of course, if he pleads guilty or is convicted. Today, however, the convict of a felony is subject to parole upon the expiration of one year or one-third of his sentence. If he is fortunate, he may secure pardon by executive clemency. If the defendant pleads guilty to a felony and is a first offender, particularly as to crimes against property, he may have his penitentiary sentence suspended and be placed on probation. A probationer is required to report monthly to the probation officer, and maintain gainful employment and an exemplary course of conduct. Should he not do so, he of course is subject to imprisonment, but at least he is given a second chance and an opportunity to prove that the first offense was grossly out of character. Another possibility, dependant upon the circumstances, is that the charge may be reduced from a felony to a misdemeanor. If that occurs, the defendant is confronted with either imprisonment in the county jail and/or fine, either of which can be suspended. Particularly are suspensions granted to first and youthful offenders.

In conclusion, I would say to you that as you perform your appointment to defend a person charged with crime, diligently see that all of the rights of individuals are upheld. If they are not, you should use any transgressions on the part of the court or the law enforcement agency to effect an equitable disposition of the case. This is not to say that you should engage in witch-hunting for breach of technical procedure in a sort of "cops and robbers" game. Criminal law and the rights of the individual are not games. You should always do all you can to insure that the accused has his rights protected as stated, that he has a fair and impartial trial, and, that by the methods outlined above, you are able to secure for him justice and fair play at neither his expense nor the expense of society.

Mr. George P. Hewes, III, of Jackson then introduced Mr. Percy Foreman of Houston, Texas, who delivered the following address.

CRIMINAL DEFENSE ADVOCACY

Percy Foreman

It was with sincere appreciation that I accepted your invitation to speak in Mississippi for this third time in recent years. I met here with the criminal law section of your State Bar less three years ago, and I was privileged to address the student body of your fine state law school in November of 1964. One reason I enjoy visiting in Mississippi so much is the striking similarities between your state and that portion of East Texas where I was born. The economy is the same, the genealogy is the same, and the precepts are the same. I feel completely at home here.

I do not appear before you with any idea that I know anything

that you do not know. Most of the problems you are facing are problems common to all lawyers in our country today. I have no doubt that I will leave your community with more inspiration, more ideas, and more approaches that will help me in my professional work, and thus my clients, than when I arrived.

One of the primary problems facing the legal profession today is that which resulted from the Supreme Court's decision in *Gideon v. Wainwright*. As you know, that decision and its successors in state and federal courts require that the accused have counsel at every stage of the proceeding—from the time accusatory evidence is suggested, when the defendant is singled out as a suspect, at arraignment, at trial, and on appeal. Our problem is caused by the dearth of competent lawyers experienced in criminal cases available to fulfill that requirement and demand. In my opinion, the solution is an obligation of the bar—not of the state legislature or the bench, but an obligation of the lawyers.

One solution which has been suggested and tried by some states for insuring representation of indigent defendants is the public defender system or some other similar system created by state legislation or by the local bar under a federal grant. There are few people who have dedicated as much or as many years of their life to the practice of law over as wide an area of the United States as has your humble servant. I have worked with and in many of the communities where the public defender type system has been implemented. May I relate some of the characteristic situations I have found.

In the communities where public defender programs have been initiated, inaugurated, and legislated into existence, the experience of the lawyers themselves has generally been dissatisfaction. The group of public defenders I met with in New Haven, Connecticut, last month is typical in voicing their complaints of inadequacies. The main difficulty seems to be that the public defenders are invariably overworked, having to accept all indigency cases presented to them. This is so even if the defender is restricted to the duty his position was originally created to fulfill—representing indigent defendants in criminal cases. However, as in New Haven, the program is inevitably expanded to include the indigent person in civil matters. The resulting volume of work is so overbearing that it becomes more than the defenders can handle in a professionally competent manner. Forced to adopt expedencies, the defender soon finds that the pride he expected to take in his work is no longer possible, and he becomes dissatisfied with himself. You can understand why the possibilities of professional and economic advancement are hindered by such a situation.

When these inadequacies are faced by the public defender himself, you can imagine how unsatisfactory the program generally is to the accused. When the unending flow of business detracts from the defender's incentive, he soon develops a resentment to every client that seeks assistance. When that inevitable attitude occurs, the defender begins the deplorable practice of basing his actions on the filing of dilatory pleas, attempting to justify them to himself by rationalizing "well, he was guilty; he told me he was guilty." Here is where the entire system of public defenders—or any type of socialized law practice, which it is—completely breaks down. Lack of the highest quality

of representation defeats the premise that a public defender program is useful.

The more guilty a man is in the criminal law, the more he needs, the more he requires, the more he should have legal counsel. The reason is that the manner and the procedure under which a case is tried is as much a part of the law as the statute defining the offense. I do not consider any district attorney, state or federal, any more a law enforcement officer than I. It is my duty as defense counsel to insure that whatever rights the defendant has, guilty or innocent, they are protected—that illegal evidence is not used against him, that a confession is not extorted, and that leading and suggestive questions, evidence of other offenses, and any of the wrongs and injustices that can occur and sometimes do in the trial of a case are not added to the guilt that is already there. I say that the more guilty a man is, the more he requires representation; but that is not the attitude of the public defender. The typical public defender will tell you that, "oh, that was a technicality, that extorted confession." There are no technicalities in the law, my friends and brothers at the bar. The law is either what it is or it isn't. The public defender soon becomes an adjunct of either the judge or the prosecuting attorney, or both. He becomes a slave to his own precepts, principles, and rules. He has to make rules and improvise in order to take care of the volume of business, and thus the law frequently is not the same in a public defender's office that the legislature intended or that an honest judge would like to see in his court.

It is because of these experiences that I join with the many who oppose the various types of public defender systems. Instead, I favor as the solution to our problem of providing representation to the indigent, the court appointed counsel procedure. Many say that appointment of counsel will only be effective if higher fees are paid by the state for those services—but I disagree. I do not think that there should be any payment at all, except by way of the privilege of trying the case. I do not speak only from the economic pinnacle that I at 63 do and ought to occupy. Regardless of the money I have made in practicing law, money has never been of primary importance to me. The reward for me is in giving my best in an appointment of a case for which I receive no money. While you cannot put it in your pocket, you have an intangible asset that is or may be worth much more than whatever fee could possibly have been paid.

Those of you more experienced lawyers know that there are more rewards to the trial of a case than the fee. Every juror is a potential client. By serving under appointment you gain the responsible faith of the judge, which is an asset worth much more to a lawyer than fine gold. Of much more value is the knowledge and experience you gain from every trial you conduct. You all know that you do not learn the law in law school, but only the principles. The law upon which an outstanding practice is based is learned only in the courtroom.

Thus, I believe the solution to the *Gideon* rule lies in the system of court appointed counsel. That to me is the only solution consistent with the ideology of free enterprise or with the concept of keeping the law a profession instead of making it a mechanical organization and operation.

Actually, I have found it hard to understand why some lawyers shy away from criminal cases. Those lawyers may not realize that they are avoiding the largest field of trial work. I would conservatively estimate that criminal cases and divorces together compose ninety per cent of all cases that are tried in court, and the lawyers who eschew criminal cases also avoid divorce cases. In so doing they are competing with all other lawyers for ten per cent of all the trial work. One of the main reasons I channeled my practice into the field of criminal law was the great opportunity that field offered—and it is even greater today.

Young lawyers especially should not shun the criminal practice. Too much emphasis is being placed today on specialization in practice. You cannot specialize the right ear or the left ear or any other part of the anatomy until you know how it may be related to every other phase and facet of the human anatomy. The same principle applies in law. I have defended many people who have been indicted because some other lawyer advised them without having a knowledge of the criminal law. Although special knowledge in selected fields of law may be desirable, one cannot begin as a specialist. Invariably, you will find that the most outstanding lawyers in a certain field began as a general practitioner. One must have a solid background of general legal knowledge and experience before he can view any legal problem in its proper perspective.

As a matter of fact, there is no art to the trial of a criminal case that cannot be mastered by the lawyer who tries civil cases. The mechanics of the two types of trials are so similar that as a young assistant district attorney I usually found the most formidable adversary to be the good civil lawyer who prepared and tried his criminal case just as he would a civil matter.

The only real difference between civil and criminal practice is the difference in the interest or values being protected. The civil lawyer is generally concerned with property rights—money. It may be an injured plaintiff's compensation, or an insurance company's money, or a bank's money, or a railroad's right of way. The criminal lawyer, on the other hand, defends that which is valueless. He defends a person's liberty; he defends the client's life. The defense of these values of an individual's life and liberty has been the basis of two world wars and of the conflict in which our country is now engaged. In the totalitarian country, the individual is important only in so far as he advances the interest of the state. Under the democratic system of government, at least in theory, the government derives its powers from consent of the governed, and the rights of the individual, theoretically, are paramount. Thus, the criminal lawyer is defending during times of peace what generations of Americans have given their life to protect and keep—the sacred principles of individual freedom. This role is one of the greatest rewards for the lawyer defending criminal cases—the reward of identifying himself with his nation's history during every trial.

You all know that the opportunity for economic advancement during the last fifty years has been so great that there have been greater

financial rewards in fields of law other than criminal law. This seemed to have helped cause more attention to be paid to those other fields. But, I predict that this will and is changing. The *Gideon* decision itself illustrates that change. Until the depression of the early 1930's, the individual's rights were not nearly as important in any courts, federal or state, appellate or trial, as were property rights. After the depression, there was great concern over individual rights, but that concern did not gain expression in the high councils of our state and national governments until the 1960's. In the 1961 *Mapp v. Ohio* decision, the United States Supreme Court began its line of cases which expressed the change of ideology in Washington from a concept of property rights being paramount to the concept of rights of individuals being paramount.

However, the Supreme Court has not been saying that it is the sole haven or protector of the rights of individuals. Every opinion emphasizes that the first right of an individual is in the trial court. This means that the first responsibility for protecting those rights rests with those of us who participate on the trial court level. It is your responsibility, whether you are sitting as a judge, or whether you are standing before the bench as a trial lawyer, or whether you are just a member of the bar. It is partially on this reason that I premise my belief that the solution to the problems that we face today in implementing such decisions as *Gideon* rests with the bar itself. We owe it to ourselves and to our profession to fulfill our duty of representation of any client, indigent or wealthy, instead of abdicating the solution to our legislatures.

The Thirtieth Annual Meeting of the Junior Bar Section then adjourned *sine die*.

The following is a list of past presidents of the Junior Bar Section of the Mississippi State Bar.

1936—Hugh N. Clayton	1951—Kenneth Franks
1937—Jesse Graham (deceased)	1952—Robert G. Nichols, Jr.
1938—John C. Satterfield	1953—Lampkin H. Butts
1939—Charles A. Sisson	1954—Joshua Morse, III
1940—George M. Ethridge, Jr.	1955—Charles B. Henley
1941—J. Morgan Stevens (deceased)	1956—George Morse
1942—Frank Everett, Jr.	1957—Jack Travis
1943—Richard E. Stratton, III	1958—K. Hayes Callicutt
1944—Paul Parr (deceased)	1959—James F. Noble, Jr.
1945—John W. Wade	1960—Eaton A. Lang, Jr.
1946—William N. Ethridge, Jr.	1961—E. C. Ward
1947—James S. Eaton	1962—Frank A. Riley
1948—George Woodliff	1963—George P. Hewes, III
1949—W. Arlington Jones	1964—Sherman Muths, Jr.
1950—E. Cage Brewer, Jr. (deceased)	1965—B. B. McClendon, Jr.

APPENDIX A

COMMITTEE REPORTS—SENIOR BAR

REPORT OF ADMINISTRATIVE LAW COMMITTEE

The Committee was appointed September 3, 1965 by Hon. Orma R. Smith, President of the Mississippi State Bar.

The Committee continued the study of a proposed State Administrative Procedure Act begun by the Administrative Law Committee in the previous year. After further study of the Uniform Law Commissioners' Revised Model State Administrative Procedure Act (1961 draft), the Committee prepared a proposed bill for consideration by the Mississippi Legislature, and on April 7, 1966, the proposed draft was submitted to the Board of Bar Commissioners of the State Bar meeting in Jackson, Mississippi. The Board of Bar Commissioners approved the proposed draft, provided that part of the proposed Act dealing with judicial review was amended to provide an alternate review in the Chancery Court of the County in which the party to which the order being appealed relates resides, or has his principal place of business. The Committee so amended the proposed bill and submitted the proposed bill in this amended form to Hon. E. K. Collins, Chairman of the Judiciary Committee of the Senate and Hon. Thompson McClellan, Chairman of the Judiciary Committee of the House, on April 13, 1966.

At the request of the Chairman of this Committee, Hon. Sherman Muths introduced a draft of the proposed bill in the House, as House Bill 989, and Hon. John Clark Love introduced a draft of the proposed bill in the Senate, as Senate Bill 2188. The bill was referred to the Judiciary En Banc Committee of the House and the Judiciary Committee of the Senate and the bill is presently pending action by each of these Committees.

A copy of the proposed Act, House Bill 989 (which is the same as Senate Bill 2188) is attached to and made a part of this Report.

HOUSE BILL NO. 989

AN ACT CONCERNING PROCEDURE OF STATE ADMINISTRATIVE AGENCIES AND REVIEW OF THEIR DETERMINATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1. *Definitions.*

As used in this act:

(1) "Agency" means each State board, commission, department, or officer, other than the Legislature or the courts, authorized by law to make rules or to determine contested cases.

(2) "Contested case" means a proceeding, including but not restricted to rate-making, price-fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes.

(4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include (a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, or (b) declaratory rulings issued pursuant to Section 8 of this act, or (c) intra-agency memoranda.

Section 2. Public information; adoption of rules; availability of rules and orders.

(a) In addition to other rule-making requirements imposed by law, each agency shall:

(1) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency.

(3) Make available for public inspection all rules and other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions.

(4) Make available for public inspection all final orders, decisions, and opinions.

(b) No agency rule, order, or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose until it has been made available for public inspection as herein required. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

Section 3. Procedure for adoption of rules.

(a) Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1) Give at least twenty (20) days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely request of the agency for advance notice of its rule-making proceedings and shall be published in a newspaper of general circulation published in Jackson, Mississippi.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having not less than twenty-five (25) members. The agency shall consider fully all written and oral submissions respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for and against the adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(b) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than twenty (20) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. The rule may be effective for a period of not longer than one hundred twenty (120) days, renewable once for a period not exceeding ninety (90) days, but the adoption of an identical rule under subsections (a) (1) and (a) (2) of this section is not precluded.

(c) No rule hereafter adopted is valid unless adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the rule.

Section 4. *Filing and taking effect of rules.*

(a) Each agency shall file in the office of the Secretary of State a certified copy of each rule adopted by it, including all rules existing on the effective date of this act. The Secretary of State shall keep a permanent register of the rules open to public inspection.

(b) Each rule hereafter adopted is effective twenty (20) days after filing, except that:

(1) If a later date is required by statute or specified in the rule, the later date is the effective date.

(2) Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing with the Secretary of State, or at a stated date less than twenty (20) days thereafter if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of the reasons therefor shall be filed with the rule. The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

Section 5. *Publication of rules.*

(a) The Secretary of State shall compile, index, and publish all effective rules adopted by each agency. Compilations shall be supplemented or revised as often as necessary and at least once every two (2) years.

(b) The Secretary of State shall publish a quarterly bulletin setting forth the text of all rules filed during the preceding quarter, excluding rules in effect upon the adoption of this act.

(c) The Secretary of State may omit from the bulletin or compilation any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the bulletin or compilation contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

(d) Bulletins and compilations shall be made available upon request to agencies and officials of this State free of charge and to other persons at prices fixed by the Secretary of State to cover mailing and publication costs.

Section 6. *Petition for adoption of rules.*

An interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. Within thirty

(30) days after submission of a petition, the agency either shall deny the petition in writing, stating its reasons for the denial, or shall initiate rule-making proceedings in accordance with Section 3 of this act.

Section 7. Declaratory judgment on validity or applicability of rules.

The validity or applicability of a rule may be determined in an action for declaratory judgment in the Chancery Court of the First Judicial District of Hinds County, provided the headquarters of the agency concerned is located in Hinds County, otherwise in the chancery court of the county in which the headquarters of such agency is located, if it is alleged that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the complainant. The agency shall be made a party to the action. A declaratory judgment may be rendered whether or not the complainant has requested the agency to pass upon the validity or applicability of the rule in question.

Section 8. Declaratory rulings by agencies.

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the agency. Rulings disposing of petitions have the same status as agency decisions or orders in contested cases.

Section 9. Contested cases; notice; hearings; records.

(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes and rules involved.

(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application a more definite and detailed statement shall be furnished.

(c) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(d) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) The record in a contested case shall include:

(1) All pleadings, motions, intermediate rulings.

(2) Evidence received or considered.

(3) A statement of matters officially noticed.

(4) Questions and offers of proof, objections, and rulings thereon.

(5) Proposed findings and exceptions.

(6) Any decision, opinion, or report by the officer presiding at the hearing.

(7) All staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

(f) Oral proceedings or any part thereof shall be transcribed on request of any party.

(g) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Section 10. Rules of evidence; official notice.

In contested cases:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury civil cases in the chancery and circuit courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(c) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(d) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 11. Decisions and orders.

A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.

Section 12. Licenses.

(a) When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this act concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for

the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Section 13. *Judicial review of contested cases.*

(a) A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this act. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law and is intended to provide procedure for review only where judicial review is not otherwise provided. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a petition within thirty (30) days after mailing notice of the final decision of the agency or, if a rehearing is requested, within thirty (30) days after the decision thereon in the Chancery Court of the First Judicial District of Hinds County, provided the headquarters of the agency concerned is located in Hinds County, otherwise in the chancery court of the county in which the headquarters of such agency is located, or, at the election of the party to which the order being appealed relates, in the chancery court of the county in which such party resides or has his principal place of business; provided, however, only one (1) chancery court shall serve as the court of review in each case and any appeal filed in any other chancery court in the same case shall be transferred to the chancery court in which the first petition for review is filed. Copies of the petition shall be served upon the agency and all parties of record.

(c) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(d) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to

the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Unsupported by substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Section 14. *Appeals.*

An aggrieved party may obtain a review of any final judgment of the chancery court under this act by appeal to the Supreme Court. The appeal shall be taken as in other civil cases.

Section 15. *Severability.*

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and for this purpose the provisions of this act are severable.

Section 16. *Applicability.*

This act shall not apply to proceedings pending at the time of passage of this act, but shall apply to all agencies and agency proceedings thereafter begun and not expressly exempted herein.

Section 17.

This act shall take effect and be in force from and after its passage.

REPORT OF COMPLAINT COMMITTEE

The Complaint Committee processed approximately 45 complaints, several of which involved charges of a serious nature. Most complaints were the result of misunderstanding between attorney and client.

Among the complaints there were ten affidavits requiring formal action. Some were withdrawn and some were dismissed as being without merit. One affidavit was referred by the Board of Bar Commissioners for formal investigation.

No complaints are being carried over.

Representatives of this Committee participated in a seminar for Law School seniors on disciplinary proceedings. This Committee recommends that this presentation be continued.

REPORT OF THE COMMITTEE ON CONTINUING LEGAL EDUCATION

Pursuant to notice, the Committee on Continuing Legal Education met at the Sun-N-Sand Motel, in Jackson, at noon, on March 31, 1966. Those attending included Chief Justice William Ethridge, President-Elect John Armstrong, and Messrs. Warren Ludlam, Parham Williams, Harry Case, James Pittman, and Joe Daniel.

Warren Ludlam was elected as Chairman of the Committee meeting, and Joe Daniel was elected Secretary.

In the absence of Chairman Robert McNutt because of illness, Acting Chairman Ludlam presented a summary of the history of the Continuing Legal Education Program, including developments during the current year.

At the conclusion of this report, it was moved, seconded, and unanimously carried that said Committee respectfully report to the Board of Bar Commissioners of the Mississippi State Bar that:

(1) The Committee unanimously endorses the need for and principles of a progressive and thorough Continuing Legal Education Program which will be of maximum benefit to all the lawyers of the state.

(2) Due to the difficulties of operating on the present available budget and problems of providing an adequate staff, the Board of Bar Commissioners should permit the contract with the Law School of the University of Mississippi to expire without renewal, until such time as sufficient financing and staff can be available for said program.

(3) If and when a new Executive Director of the Mississippi State Bar shall be selected by the Board of Bar Commissioners, his duties should include as a primary responsibility therein the administration and co-ordination of the Continuing Legal Education Program, in whatever form it may then take.

(4) After said Executive Director shall have been selected and shall have the opportunity to develop his program, then said Committee and the Law School of the University of Mississippi shall study the manner in which the Law School and the Mississippi State Bar may most effectively go forward with an adequate Continuing Legal Education Program.

(5) In the interim, the Board of Bar Commissioners should authorize the resumption of a Continuing Legal Education Program, along the lines existing before the present contract with the Law School, with the allowance by the Board of Bar Commissioners of a sufficient budget allocation to carry on a proper and effective Continuing Legal Education Program.

There being no further business, the meeting of said Committee was adjourned.

CONTINUING LEGAL EDUCATION PROGRAMS FOR THE YEAR 1966

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| January 28, 1966 | — | Estate Planning Seminar, Jackson, Mississippi |
| March 5, 1966 | — | American Trial Lawyer's Association's Trial Training Seminar, University of Mississippi |
| April 16, 1966 | — | Mississippi Defense Lawyers Association and Defense Research Institute's Defense Seminar, University of Mississippi |
| April 29, 1966 | — | Wage-Hour and Related Problems, Jackson, Mississippi |
| May 27, 1966 | — | Tax Problems of Real Estate, Jackson, Mississippi |

REPORT OF COMMITTEE ON CORPORATIONS, BANKS, AND BANKING

The Committee has had under consideration draft of a proposed bill to require foreign partnerships desiring to do business within Mississippi to register with the Secretary of State. The bill was modeled after an enactment of the New Hampshire Legislature, House Bill No. 595, Chapter 187, Laws of New Hampshire, 1965, approved June 23, 1965. The New Hampshire law requires the registration and

qualification in New Hampshire of a foreign partnership desiring to do business in that state, in much the same manner as a foreign corporation is required to register and qualify to do business in that state. The proposed bill would impose essentially the same requirement in Mississippi.

The opinion of the members of the Committee who have expressed themselves on the proposal is divided. The number of members who approve it is equal to the number who either oppose it or express doubt about the necessity or advisability of such a law in Mississippi, or the constitutionality thereof. The Committee has, therefore, concluded to refer the bill for study to the Chairman of the Study Committee, and this has been done.

The attention of the Bar is invited to the enactment by the 1966 session of the Mississippi Legislature of House Bill No. 354, an act to amend section 95, chapter 235, Laws of 1962, section 3509-202, Mississippi Code of 1942, Recompiled, relating to suspension of foreign and domestic corporations for failure to file annual report; and House Bill No. 351, an act to amend section 105, chapter 235, Laws of 1962, section 5309-212, Code, *supra*, to provide for survival of remedy after dissolution, suspension, or forfeiture. The Committee is informed that the two bills were introduced at the instance of the Secretary of State.

At the time of the preparation of this report there are pending in the Legislature Senate Bill No. 2099 and Senate Bill No. 2100. The former proposes to amend section 60, chapter 235, Laws of 1962, section 5309-133, Code, *supra*, to provide that subsections (a) and (h) thereof shall not apply in the case of certain classes of shares of a public utility corporation if its issuance of shares of such classes is subject to approval, authorization, or order of a regulatory authority of the State of Mississippi or of the United States. The latter proposes to amend section 22 of chapter 235, Laws of 1962, section 5309-39, Code, *supra*, so as to provide that signatures to bonds, debentures, and coupons, as well as share certificates, may be facsimile. The Committee is informed that the two bills last mentioned were introduced at the instance of one of the utility companies.

REPORT OF DEPARTMENT OF JUSTICE BUILDING COMMITTEE

Our Committee appeared at the regular meeting of the Capitol Commission held in the Governor's office on January 11, 1966. The meeting was presided over by the Governor, and there was present a large number of the members of our Committee, as well as the members of the Capitol Commission.

We urged upon the Governor and the Capitol Commission that provisions be made at the current session of the Legislature for the erection of a suitable Department of Justice Building. We urged that the same be housed in a separate building, which would be constructed with a view to the long range future of the State. It was our position that the importance and dignity of the Court requires this. We suggested that such a building could also house, in addition to the Court and its Clerk, the offices of the Attorney General, the State Library, and the offices of the Mississippi State Bar. We pointed out with illustrations the gross inadequacy of the quarters occupied by these agencies at this time. We suggested that such a building be planned so that it might be expanded, perhaps vertically, as the exigencies of the situation demand. We suggested that architects be selected in the near future, and that they should confer with the Justices of the Supreme Court, the Clerk, the Attorney General, the Law Librarian, and the Executive Director of the Mississippi State Bar as to their space requirements, and as to the most desirable arrangement of their quarters.

Both the members of our Committee and the thoughts expressed by us were cordially received by the Governor and the Capitol Commission. They promised to give due consideration to our suggestions, and to move forward with such project as appeared to be feasible.

Under date of January 28, 1966, we reported on our progress to date to the Honorable Dan Shell, Chairman of the Legislative Committee of the Mississippi State Bar.

Mr. Shell advises us that thereafter Senate Bill No. 2047 was introduced, which was known as the "Omnibus Bond Bill." This bill was referred to the Finance Committee of the Senate. Apparently it was not specifically designed to cover a Department of Justice Building, and at the time of this report, there are those in the Senate who intend to suggest several amendments, which will include a Department of Justice building.

REPORT OF THE JUDICIAL ADMINISTRATION COMMITTEE

The Judicial Administration Committee held one meeting in Jackson on Friday, November 19, 1965, with seven members present. The work of the committee at the meeting and during the year can be sub-divided as follows:

I. The committee studied the bill drafted by the study committee to form a judicial council and also studied a bill adopted by the State of Arkansas creating a judiciary commission. The committee decided that the purpose of the two bills is substantially the same. However, the Arkansas bill creates a temporary commission rather than a permanent council. The committee felt that the creation of a temporary commission would probably be more palatable to a budget conscious governor and legislature than would the creation of a permanent council. The committee redrafted the Arkansas bill for the judiciary commission to conform with Mississippi terminology and unanimously recommended its submission to the legislative committee and to the legislature. The committee also drafted a proposed bill appropriating \$50,000.00 for the work of the judiciary commission when created.

II. The committee discussed the Uniform Commercial Code, approved it unanimously, and recommended its adoption by the legislature.

III. The committee discussed proposed changes in the state court procedure, but decided that the committee should not undertake to act thereon, but should limit its activities to support of the passage of the proposed bill creating a judiciary commission and to adoption of the Uniform Commercial Code.

IV. The committee considered the report made by the committee on judicial salaries of the Mississippi State Bar recommending an increase in judicial salaries and unanimously approved the recommendations of that committee.

V. The committee decided that court terms should not interfere with the annual convention of the Mississippi State Bar. It was unanimously the sense of the committee that the State Bar, in convention assembled, should set a specific date in June for holding its annual convention and that the State Bar president and State Bar commissioners should be authorized in liaison with the judge's conference to propose necessary legislation to prevent any conflict with the court terms.

VI. The committee recognized that the State Bar is at this time interested in a number of pieces of proposed legislation, and the committee recommended that its chairman confer with the president of the State Bar and with the chairmen of the other committees of the State Bar sponsoring the proposed legislation to work out a priority among the proposed bills and to organize the support of the various committees for the bills before the legislature.

Conclusion. We understand that all of the proposed bills have been introduced into the legislature but that for various reasons none of them have been adopted. We do not believe that this failure is due to any lack of interest by the members of the Bar, but because of the existence of questions of a more demanding nature which have demanded the time of the legislature.

The committee expresses its regret and recognizes the deep loss to the State Bar in the death of its chairman, Forrest G. Cooper.

REPORT OF LABOR RELATIONS COMMITTEE

Initially, it was our Committee's thought that the matter of prime concern was to join with other citizens in attaining the defeat of the proposal to repeal Section 14(b) of the commonly-called Taft-Hartley Act. It was already apparent to the members of the Committee that the entire congressional delegation from the State of Mississippi would support this effort. Your Committee is pleased to report that efforts to repeal Section 14(b) failed, and thus the matter that gave your Committee its primary concern was resolved.

Consideration was given to the holding of a seminar in the field of labor relations in the hope that such a program would attract more members of the profession to a more intimate relationship in this field of law. However, it did not appear feasible to try to undertake such a program at this time, but it is recommended that the Committee to succeed us in our labors give careful consideration to this proposal. Our University of Mississippi has a full time Director of Continuing Legal Education. The Director is anxious to cooperate with this Committee and its successor in planning such a program. However, it takes some real effort on the part of everyone in interest to make such a program a success. Members of the staff of the Regional Director in New Orleans will be available for such purpose as will be the members of the faculty of the Law School at the University. However, it is suggested that consideration be given to inviting qualified personnel from without the Government and from without our local confines to make this presentation. It is suggested that careful consideration be given to inviting both members of management and union for the opportunity of participating in such a proposed conference.

While your Committee held only one meeting during the year, it was felt that no useful purpose would be served in fostering any additional legislation at this time. The current session of the legislature has its hands more than full.

The field of labor relations is comparatively new to our profession. At the same time, it is suggested that it offers an unlimited opportunity to the practitioner who will devote some of his time and effort to the study of current legislation and the rules and regulations promulgated thereunder. It is a rewarding field of endeavor for those who apply themselves.

Finally, we recommend to the new administration that this Committee be continued in the hope that more desirable results will be obtained.

REPORT OF THE LAW DAY U.S.A. COMMITTEE

This Committee was charged with responsibility for implementing the Law Day U.S.A. Program on a statewide basis, working through and with local and

district bar organizations. It would be emphasized at the start that this year's program was most successful, primarily because of the dedicated efforts of local and district Law Day Committees in almost every county and region of Mississippi.

The 1966 Law Day theme was: "Respect the Law—It Respects You," pointing up the importance of every American recognizing and fulfilling his responsibilities as a citizen by obeying the law, assisting law enforcement officers wherever possible, serving upon juries when called, testifying in court when necessary, having respect for the rights of others, and teaching his children to do likewise. Law Day U.S.A. 1966 was established by Joint Resolution of Congress and Proclamation of the President, setting aside May 1, 1966, for the annual observance.

Your Committee's first task was to compile an up-to-date mailing list of all local and district bar organizations, and to forward to each a request for the early appointment of local Law Day Committees. *The Mississippi Lawyer* assisted greatly by publishing this request, and by printing a continuing report of Law Day preparations and activities in its February, March, and April issues. All Law Day advertising and planning materials were ordered in February for early distribution.

Governor Johnson officially proclaimed May 1, 1966, Law Day, as did mayors, boards of supervisors and courts in every part of the State. A great many of these ceremonies were covered by news media, with resulting publication of numerous news photos and stories.

The 1966 budget for the Law Day program was \$800.00. Of this total, the sum of \$693.00 was expended for the purchase of the following items: 120 large highway billboard posters, 8 rolls of mailing stickers (1,000 stickers per roll); 18 series of newspaper ad mats; mock trial scripts; 250 window display posters; and 200 copies of the "1966 Speakers Digest." The remaining \$107.00 of the budget was used for postage, shipping charges, and miscellaneous expenses.

All of the above materials were duly received and were distributed by your Committee to more than 70 city, county and district Law Day Committees, representing the local bar organizations of the state, the distribution being made on the basis of population to be served by the various committees. Every member of your State Bar Committee was assigned to work with local organizations in certain specified counties, and to assist their development and implementation of the program at every stage. Through the good offices of Mr. Byron T. Hetrick, co-chairman of your Committee, radio and television stations across the state made spot announcements concerning Law Day during the two weeks preceding May 1st, and television stations used film slides at station breaks. Various television channels carried panel discussions on law and justice conducted by prominent members of the Bar. In addition, newspaper ad mats were distributed to 18 of the largest newspapers in the state and were printed in said newspapers during the two weeks preceding May 1.

The Outdoor Advertising Association of Mississippi, Inc. furnished to the Committee, free of charge, 120 large highway billboards strategically located across the state, and each one of said billboards was utilized by displaying thereon the attractive 1966 Law Day highway billboard posters. These posters remained on display all across Mississippi during the entire month of April. This year the Junior Bar Section of the Mississippi State Bar again established a Law Day U.S.A. Committee, the purpose of said Committee being to work in conjunction with the State Bar Committee. Mr. James McKenzie, Chairman of the Junior Bar Section

Committee, tendered the services of said Committee to assist the State Bar Committee in any way deemed desirable. In this connection the Junior Bar Committee was extremely helpful in generating enthusiasm over the state for the celebration and observance of Law Day. In addition, the Junior Bar Section Committee, at our request, assumed primary responsibility for all Law Day U.S.A. programs to be conducted in the public schools of the state, *e.g.*, assembly programs, student tours of courthouses, and mock court trials. It was felt by your Committee that the assigning of these activities to the Junior Bar Section would tend to promote expanded school programs in connection with Law Day and would also prevent any duplication of efforts by the two Committees. We are happy to report that the Junior Bar Section Committee's efforts met with marked success, as may be seen from that Committee's report filed with the Junior Bar Section of the Mississippi State Bar. It should be noted that the cost of all of the activities of the Junior Bar Section Committee was paid out of the State Bar Law Day budget.

In addition to the above activities, the various local and area Law Day committees created speaker bureaus and furnished Law Day speakers during the week preceding May 1 to a large number of civic clubs, service clubs, parent-teacher groups and similar organizations over the State. During the week preceding May 1, all local and district bar organization committees distributed mail stickers to their members to be used on all outgoing mail. The local and district committees placed all window display posters on prominent display during the two weeks preceding May 1, in courthouses, schools, banks, and savings and loan associations. Churches across Mississippi were contacted well in advance of Law Day and requested to make appropriate recognition of same. According to our information, numerous churches cooperated by having Law Day announcements made from pulpits on Sunday, May 1, 1966, and some churches had special Law Day addresses by laymen or special Law Day sermons. All of the activities mentioned above constituted the basic minimum program which your Committee urged all local organizations to implement. From reports already in, we are happy to say that said basic minimum program was actually put into effect across the state by practically every one of the more than 70 local organizations.

In addition, in five or six of the larger counties of the state, appropriate naturalization and other ceremonies were held in courts of record, Law Day luncheons and banquets were held with prominent speakers and news coverage, mock trials were held for interested audiences, and other special observances were arranged and carried out, all with attendant news photographs and coverage.

Your Committee has placed in the permanent Law Day file, with the original of this report, a representative file of news clippings, photos and Law Day ads, for the information of next year's committee. Your Committee is preparing a final report outlining the work of the Committee and the participation of the Mississippi State Bar in the national observance of Law Day U.S.A., and said report will be forwarded to the American Bar Association in due course.

In conclusion, your Committee wishes again to extend its thanks to the more than seventy participating local and district bar associations and Law Day Committees, and to the members of the Mississippi State Bar. Without the support, interest, and efforts of all of you, the 1966 Law Day U.S.A. program could not have been successful. The Committee also extends its thanks and appreciation to Alice Nevels and her fine staff for the excellent work done by them in connection with this program and for her spirit of cooperation and helpfulness at all times shown to the Committee.

REPORT OF LAW STUDENT AID COMMITTEE

The Law Student Aid Committee of the Mississippi State Bar has met during this year. We are still of the opinion that additional scholarships should be established at the University of Mississippi School of Law, all for the reasons and in the manner set forth in our report of May, 1965.

We recommend suitable legislation therefor, whenever suggested by the Dean of the Law School of the University of Mississippi.

REPORT OF COMMITTEE ON LEGAL PROBLEMS RELATING TO "OLDER CITIZENS"

Purpose

This is a temporary Committee of the Mississippi State Bar appointed 1965-1966 to investigate the legal needs of the "aged" or older and retired citizens of our state.

History

There have been increasing requests for legal information by our "older citizens" as the result of millions now recently of retirement age; modern day living and decisions involving more legal transactions; medical progress aiding the longevity of life; and the "mystery" surrounding the layman as to when, why, and how to consult a lawyer.

Over one-half of the State Bar Associations have dealt with this increasing problem and have inaugurated a program of information and special aid to this large segment of modern society. The Department of Health, Education and Welfare (Office of Aging) has published a booklet, in 1965, entitled "You and The Law and Retirement," edited by lawyers and social case workers. The Department of Education of the State of Mississippi now has a division with a staff in charge of affairs relating to older citizens of the State of Mississippi.

This division of our Education Department has made a special request of the State Bar to publish a brochure regarding legal problems of the aged for dissemination to older and retired persons. This Department has offered to pay the initial expenses of such publication when properly approved by lawyers or the State Bar.

Action Recommended

This Committee, after careful consideration and investigation, has arrived at the conclusion that the demand and the special legal problems facing Mississippi's older citizens are sufficient to require appropriate attention of this Bar. Further, the first step should be a carefully edited brochure of general legal problems that might face this group and appropriate approaches to same. Further, the Committee on Public Relations of the State Bar and the Ethics Committee should be consulted on this project. Further, the Mississippi State Junior Bar should be given an opportunity to participate in this program.

Therefore, the following resolution is offered for adoption:

BE IT RESOLVED, that the Mississippi State Bar approve a project for publication of legal information relating specifically to older citizens and that the Mississippi State Junior Bar be asked to assume primary responsibility for publication and

dissemination of same, with appropriate consultation with the Senior Bar Public Relations and Ethics Committees.

We respectfully submit this report and recommend that this Temporary Committee be dismissed upon passage of above resolution or such other similar action that may be taken by the State Bar.

REPORT OF COMMITTEE ON LEGAL SERVICES FOR THE POOR

History

This special committee was appointed by President Orma R. Smith for the 1965-1966 year. In setting up the Committee President Smith stated as follows:

It is now apparent that the Office of Economic Opportunity (OEO) is to be with us for many years in the future. The legal profession must recognize this and take steps to prevent non-professional groups from taking over the program of providing legal services to the poor, a program which is fostered by OEO.

The proposal to extend legal services to the poor is entirely different and separate from the plan of the Federal and State Courts to provide legal representation to indigent persons charged with crimes and financially unable to obtain legal representation. It is based upon the premise that the legal profession should provide representation for all the people, regardless of their financial conditions.

I have just returned from the ABA Meeting in Miami and this matter had top billing at practically every session. The problem confronts us now and we must take steps to deal with it.

It was brought out at Miami that the program to furnish legal services to the poor could be sponsored by any recognized Community Action Program Committee recognized by OEO. I believe the lawyers of the State should step forward and deal with this subject, so that the legal profession, rather than lay groups, can control the program.

Although the instruction to this Committee was to deal primarily with poverty programs relating to legal services to the "poor" and the extension of legal services in civil matters as contrasted with our usual experience with legal services to indigents in criminal matters; the various programs, projects, experiments, requests and demands are so complex and intertwined with other committees both of the American Bar Association as well as the Mississippi State Bar Association that we necessarily have to refer to the work of other committees in this report. We do not intend in any way to usurp the responsibilities of any other committee but merely refer to same as may be necessary for clarification.

The *Gideon v. Wainwright* decision stirred up a great deal of activity by Bar Associations in having a responsibility to provide court appointed counsel for indigent defendants in criminal cases. The pressure of civil rights groups, federal regulations and programs and OEO legal projects have developed ever increasing demands for legal services to the "poor." The American Bar Association has been prevailed upon by all of these groups and the trend of modern times to lend its

support to more services to the public and particularly to the less privileged. Thus, there is a new, widespread movement to insure justice in non-criminal matters. Every one will freely admit that the "poor" are entitled to equal justice, but these new projects may well bring an entirely new relationship between the impoverished, and business in general, such as creditors, landlords, and the lawyers.

Legal efforts are being concentrated in a number of projects, primarily financed by the federal government, across the nation and in the State of Mississippi. Many programs are bringing out of state lawyers to handle these legal projects in our state.

The past two administrations of the Mississippi State Bar have had to deal with urgent and critical problems relating to the encroachment of lawyers outside the state and the demands for legal services by both criminal and civil defendants in our state. Past President Earl Thomas and his Board of Commissioners issued a public statement because of the criticism leveled at the lawyers of our state and sought to defend our Bar as far as providing adequate services to the impoverished or those entitled to same.

For some two years local bar associations have been called upon by the state and federal courts to assist in meeting the overwhelming demand for such legal services, and many local bar associations have had numerous meetings with a full discussion as to their responsibility and participation in providing legal services to the poor. The problems are different in various sections and counties of our state and the experiences vary. However, the challenges and the need for action is more necessary than ever before.

The Present Situation

The Committee would emphasize that this problem is not one that comes from within the state, but is the result of modern trends and changes in the practice of law and from outside pressures. The problem is real and must be faced, or otherwise the traditional practice of law will be eroded away; and by apathy of the members of the Bar, the legal profession will be socialized and government controlled.

On the other hand, the Committee has heard expressions from its members that we should be cautious and try to use the best advice and wisdom under these circumstances and not succumb to every pressure but try to maintain many of the traditional basic foundations of the legal profession.

Approximately seven hundred lawyers came from various states across the nation to our state to work in various legal projects in this state, primarily having to do with "civil rights." There are one or two projects financed by the federal government paying outside lawyers to represent the so-called indigent or poor already in our state, and there are many more applications for such funds pending. This Committee has asked the appropriate authorities to withhold acceptance of further applications until the Mississippi State Bar has had an opportunity to take action regarding these matters. Several projects have been adopted by our bar associations or lawyer groups in our various institutions and counties. For illustration, the Clarksdale Bar has a Coahoma Legal Aid Non-Profit Corporation and their experience will be very helpful for the future. A group on the Gulf Coast have a public defender system which they are experimenting with and their experience will be given to the State Bar as a whole. University of Mississippi Law School has a grant to train young lawyers both in the Law School and "on the job," and this will probably encourage many young lawyers to enter the criminal field of practice or otherwise be attentive to the modern trend toward free services to the poor. A

number of liaison committees have been appointed in various counties so that when the problem arises some authority is available to present the problem to.

At this time the State Bar Office in Jackson, the State Bar President and Board of Commissioners, and this Committee are engulfed with overwhelming demands and requests from various groups, either as to information or for legal services. Some central office should be maintained to handle properly all these various requests so that all efforts can be coordinated. There are numerous committees, both in our state and in regional bar associations and in the American Bar Association, handling various facets of the problem and some means of coordination among all these committees should be devised. We now have in Mississippi with the Senior and Junior Bar the Complaint Committee receiving complaints from all sources; the Ethics Committee which needs to be consulted regarding the proper conduct for our lawyers in this new field; this Committee, called "Legal Services to the Poor"; the Long Range Planning Committee which should include some facets of the planning from the investigation thus far; the Public Defender Committee; the Unauthorized Practice of the Law Committee; the Study Committee, which has to do with legislation applicable to this general subject; and the Defense of Indigents in the Junior Bar Section, along with the Public Relations Committee which should inform our public as to the problem and our action thereto. In addition, there are numerous committees dealing with the subject in the American Bar Association, and of course there are various referral, legal aid, and defender committees, both in our state and within the American Bar Association framework. However, we emphasize again that the situation and problem is somewhat different from the conventional referral committee work and the Legal Aid Committee work. These dealt primarily with domestic problems or criminal matters and did not cover the enlarged field of "justice to the poor" as now faces us. There is also a committee for Legal Assistance to Service Men and again this is a specialized service. There is a great need for all of these committees to be properly coordinated and appraised of the work of each, to the point that a Council of the Chairmen of such committees may be appropriate.

The Work and Recommendations of this Committee

This Committee has been flooded with requests for information and for help and it has taken more than the usual time of the Chairman and other members just to answer inquiries and to provide emergency remedies in many cases. The Committee has been so busy answering urgent inquiries that it has not had sufficient time in which to meet and appraise the entire situation and to arrive at conclusions as the result of thorough discussion. However, the Committee has met on several occasions and has had one special meeting with the Board of Commissioners. The Committee has had occasion to report directly to various county and district offices and also to various federal and state courts. It was the consensus of opinion that this Committee should report developments factually to the State Bar and also to introduce such resolutions as may appear proper at this time. The Committee submits the following findings and conclusions:

1. The problem of "legal services to the poor" is definitely with us and is urgent and the Mississippi Bar cannot afford to ignore same but must take some type of action.
2. The problem varies in various parts of the nation and in various areas of the State of Mississippi, *i.e.*, city and rural areas; areas where civil rights activities are concentrated; areas where courts vary in their rules as to lawyers allowed to

practice before said courts or the manner of appointment of attorneys to represent indigent defendants; and areas where there are variations in law practice, farming, industrial, etc. Thus, the solutions to these sundry problems will have to vary to some degree. There are sincere differences of opinion among lawyers as to the nature of the problem and the proper approach thereto, and some means will have to be sought to get the members of the Bar to agree upon some general solutions to the various facets of the problem.

3. There is a great need for authentic information and discussion of this problem in the local city and county bar associations so that all of our lawyers understand the problem. Otherwise, there is a tendency to ignore same or to take no personal responsibility in participating in some solution to same. There are certain traditional foundations of law practice that should be preserved as we attempt to deal with this problem, such as a fair referral system where the lawyer has an opportunity to select his client and the client has a free opportunity to select his lawyer.

4. Some fair system should be devised where all attorneys will participate and not place the burden on just a few in each town, city or county.

5. Any approach to the problem should allow flexibility so that each city, county or district association can meet the peculiar needs of its area and thus select from alternatives the best direction or project.

6. There should be a careful effort not to encroach upon the valid historical precedents and traditions of law practice and such time-proven committee work known as Legal Aid, Referral or Defender systems.

7. There is a need for a continuation of a committee of this type to receive the information and disseminate it properly to local bar associations and to act as a statewide liaison office for such problems and to aid and assist the Public Relations Committee in apprising the public as to the Bar activities in meeting modern needs.

8. It is anticipated that this activity and its problem will grow to the extent that a staff member will be required to handle the administration of the work of this Committee from the State Bar Office.

9. This Committee should be made a standing Committee of the Bar, as the problems will probably accelerate and be with us for the foreseeable future.

10. Certain legislation will be needed, such as authority to pay appropriate fees to attorneys appointed by the court consistent with modern legal economics.

11. In order to retain control of the situation in our state, it will probably be prudent for the State Bar not only to pass a resolution saying that it will take care of the real needs of the "poor" in this state, but that it will also sponsor a survey or experimental program under the Office of Economic Opportunity funding primarily to permit the Bar to handle its own affairs, rather than outsiders, as well as the good that might be achieved to the Bar and indigents from such a grant.

Recommendations Of This Committee

This Committee has heretofore made the following recommendation to your Board of Commissioners:

RESOLUTION OF COMMITTEE ON PROVIDING LEGAL SERVICES TO THE POOR

The legal needs of all indigent persons in the State of Mississippi ought to be served. It is imperative that the personal and confidential relation-

ship traditionally maintained between members of the Bar and their clients be continued in all areas where legal services are rendered.

Programs of the Federal Government are now rapidly expanding into the field of legal services. This committee resolves that it is the responsibility of the Mississippi State Bar to, as rapidly as possible, make a thorough investigation into the feasibility of developing and implementing a program which can bring about the desirable results of serving the legal needs of indigent persons in the State of Mississippi while preserving the traditional Attorney-Client relationship which we all know will best serve these needs.

The Board of Commissioners adopted above resolution with two amendments. First, that any project of legal services of a civil nature would be channeled through the Mississippi State Bar or the local bar associations rather than through outsiders. Second, that this Committee be given the responsibility to devise a specific plan for a statewide project for legal services to the "poor" through the Bar Association (utilizing an OEO Grant) and that said plan be submitted to the Board of Commissioners.

Thus, in line with the action of the Board of Commissioners, the Committee submits the following resolution for adoption:

BE IT RESOLVED that the legal needs of all indigent or poor persons in the State of Mississippi ought to and will be properly served by the Mississippi State Bar and its local Bar Associations. That it is imperative that the personal and confidential relationship traditionally maintained between members of the Bar and their clients be continued with freedom of choice of clients and lawyers continued in all areas where legal services are rendered.

BE IT FURTHER RESOLVED that the Mississippi State Bar is aware of the many federal programs that are now rapidly expanding into the field of legal services and that it is the responsibility of the Mississippi State Bar, as rapidly as possible, to make such investigation as necessary into the feasibility of developing and implementing a program which can bring about the desirable results of serving the legal needs of indigent or poor persons in the State of Mississippi, but yet preserving the traditional attorney-client relationship which will best serve these needs.

BE IT FURTHER RESOLVED that this Committee be continued with proper staff and financial aid that may be available to carry out the instructions of the State Bar and its Board of Commissioners in this area of service.*

REPORT OF THE MEMORIAL COMMITTEE

The Memorial Committee prepared resolutions in memory of the members of the Bar who had died the preceding year and made arrangements for the presentation thereof at the opening of the fall term of the Mississippi Supreme Court in its chambers on September 13, 1965.

The Chief Justice, Honorable Percy M. Lee, called the Court to order and turned the services over to The Honorable Orma R. Smith, President of the Mississippi State Bar. The invocation was given by the Reverend Edward J. Pendergrass, Bishop of the Jackson area of the Methodist Church. Music for the service

*This resolution was duly adopted by the State Bar in convention assembled on June 18, 1966.

was rendered by Miss Lucie Vann Fleming at the organ and Mr. William Stuart, soloist.

President Smith spoke of the contributions made to the Bar and the state by those who had passed during the preceding year. As the resolutions and the names of the deceased members were read, candles were lighted by Honorable Charles E. Hughes and Honorable Harold D. Miller, Jr.

Honorable Percy M. Lee, Chief Justice, gave the response and Honorable W. N. Ethridge, Presiding Justice, read a resolution of the Supreme Court Judges, in memory of Judge John W. Kyle, former member of the Supreme Court. The service was concluded by the Chief Justice.

REPORT OF COMMITTEE ON MILITARY LAW AND LEGAL ASSISTANCE FOR SERVICEMEN

This committee, on request of the Staff Judge Advocate, Third U.S. Army, was created in our Association during the year 1962-1963 and the members of the original committee were again reappointed and served for the year 1965-1966.

The Mississippi State Bar and this committee cooperated in the Third Southeastern Seminar on Government Contracts and Procurement Law sponsored by the Institute of Continuing Legal Education in Georgia in cooperation with the Bar associations or Military Law Sections of Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and the Public Contracts Section of the American Bar Association. The Seminar was held February 3-5, 1966, at the University of Georgia at Athens.

Honorable Stephen Ellis Allen, Jr., of this committee, served on the program planning committee for the Seminar at Athens, Georgia, at a seminar planning conference held September 17, 1966.

Honorable William deB. Neville, Vice-Chairman of this committee, presided over one of the several interesting and informative sessions of the seminar.

The Seminar included many dignitaries in this field of law together with high-ranking army and government representatives.

The committee has coordinated efforts with Colonel Kenneth C. Crawford, Staff Judge Advocate, Headquarters, Third U.S. Army, Fort McPherson, Georgia, and his staff and continues to enjoy an excellent relationship with representatives of the Armed Forces, as well as with the Military Law Sections and committees of the Bar Associations of the several Southeastern States.

REPORT OF PROGRAM COMMITTEE

The Program Committee of the Mississippi State Bar for the year 1965-1966 met at the Heidelberg Hotel in Jackson on January 7, 1966. The chairman, all members of the committee, and Mrs. Alice Nevels, Executive Director of the Mississippi State Bar, were present at this meeting.

The theme of the program for the annual convention to be held in June at the Heidelberg Hotel, Jackson, was decided upon. A tentative program was drafted by the committee, and various work assignments were given various members of the committee.

On February 26, 1966, the Program Committee met in conjunction with the Arrangements Committee appointed by the Hinds County Bar Association and representatives of the Junior Bar. There were also present at this meeting Mr. George Wilkinson and Mr. George Sturm of the Heidelberg Hotel; Mrs. Shirley Wadkins, Secretary to the President of the Mississippi State Bar; Mrs. Alice Nevels, Executive Director of the Mississippi State Bar; President and Mrs. Orma R. Smith; and President-Elect John T. Armstrong. Members of the Program Committee present were Judge N. S. Sweat, Jr., Chairman, Corinth; Honorable James Hugh Ray, Tupelo; and Honorable Robert Weaver, representing Honorable L. Arnold Pyle, Jackson.

At this meeting, the Friday and Saturday portions of the program were discussed and brought up to date, all but a few details of the program being finally settled. Further work assignments were made in order to get the program into final draft form.

The program was put into final form and approved by the Chairman of the Program Committee on April 26, 1966.

REPORT OF PUBLIC DEFENDER COMMITTEE

The Public Defender Committee was appointed by President Orma Smith to consider and develop means of providing adequate representation for indigent criminal defendants in the courts of Mississippi. Utilizing the students and resources of the University of Mississippi School of Law, the committee conducted a survey during the fall of 1965 relative to the several problems presented by the representation of indigents. This survey included the mailing to each member of the Mississippi State Bar of a questionnaire designed to obtain the views of the individual bar members relating to the problem of indigent representation. An exceptionally good response was received to this questionnaire, and the majority of the respondents recommended that some form of public defender system be initiated in Mississippi. After the results of the survey were collected and analyzed, the committee, again using the resources of the Law School, collected the various statutory provisions whereby other states have attempted to solve the problem.

Then, on March 5, 1966, a meeting of the committee was called to consider the results of the survey and the feasibility of recommending a proposed system for Mississippi. After a thorough consideration of the problems, the committee recommended that the Mississippi State Bar work for the enactment of a public defender system. The committee further authorized the drafting of a proposed public defender act, which the chairman agreed to undertake, utilizing the resources of the Law School.

Acting pursuant to the authorization, the chairman drafted a proposed public defender act and copies thereof were sent to the various committee members for their suggestions and approval. After this approval was obtained, additional copies of the proposed act were then sent to Hon. John Clark Love, a member of the Mississippi Senate, and to Hon. Frank Carlton, a member of the Mississippi House of Representatives. Each of these two legislators had requested the assistance of the committee in drafting a proposed act, and the copies of the draft were sent in compliance with such requests.

A copy of the proposed act is attached to this report.

Although it is doubtful that this draft will be acted upon at the current session of the legislature, the committee is hopeful of enactment at the 1968 session.

For this reason, it is desirable that the Public Defender Committee be continued as a Bar committee for the purpose of promoting the adoption of the act, and also to serve as a drafting agency for amendments which may be proposed to the act as presently written.

AN ACT TO PROVIDE FOR A SYSTEM OF PUBLIC DEFENDERS: TO PROVIDE FOR THE SELECTION, QUALIFICATIONS, TERM OF OFFICE, DUTIES AND COMPENSATION OF SUCH PUBLIC DEFENDERS: TO AMEND SECTION 2505, MISSISSIPPI CODE OF 1942: AND FOR OTHER RELATED PURPOSES

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1. *Public Defender; Election; Term of Office.* There is hereby created and established a system of Public Defenders in the State of Mississippi. There shall be a Public Defender for each of the Circuit Court Districts. The Public Defender shall be elected at the general election by the qualified electors of their respective Circuit Court Districts as other state officials are elected and shall serve for a term of four years, and until their successors are elected and qualified. The Circuit Judge of each Circuit Court District shall make an interim appointment until such general election.

Section 2. *Qualifications of Public Defender.* The Public Defender shall possess the same qualifications as are provided by law for the office of District Attorney.

Section 3. *Disabilities of Public Defender.* The Public Defender shall be subject to the same restrictions and disabilities as are provided by law for the office of District Attorney.

Section 4. *Compensation of Public Defender.* The compensation of the Public Defender shall be in the same amount and payable in the same manner as is provided by law for the office of the District Attorney.

Section 5. *Assistant Public Defenders in Certain Districts.* In any Circuit Court District now or hereafter having a population of not less than 100,000 and not more than 200,000, according to the latest federal census, there shall be one assistant to the Public Defender; in any Circuit Court District now or hereafter having a population of not less than 200,000 and not more than 300,000, according to the latest federal census, there shall be two assistants to the Public Defender; and in any Circuit Court District now or hereafter having a population of not less than 300,000 and not more than 400,000, there shall be three assistants to the Public Defender. Said assistants, including any successor or successors, shall be appointed by the Public Defender with the approval of the Circuit Judge of said District. Said assistants shall possess the same qualifications and shall be subject to the same disabilities and restrictions as are provided by law for the Public Defender and shall have the power and authority, under the direction and supervision of the Public Defender, to perform all of the duties required of that office. Said assistants may be removed at the discretion of the duly elected and acting Public Defender, or for cause by the Circuit Judge of said District. The salary of each of said assistants shall be five thousand, five hundred (\$5,500) per annum, payable in the same manner as is the salary of the Public Defender.

Section 6. *Duties of Public Defender.* The Public Defender shall represent any person who is determined to be insolvent as provided in this act, who is under arrest for, or is charged with, a crime as defined by Section 8 of this act, if such a person requests such representation or if the court, on its own motion, so orders

and such person does not knowingly, understandingly, and intelligently waive the opportunity to be so represented. The clerk of the court conducting such proceedings is directed to make such proceedings a matter of record.

The Public Defender may, with the consent of the trial court, but without compensation by the state, accept the voluntary services of members of the Mississippi bar in good standing in the defense of an insolvent person.

The Public Defender shall give priority and preference to his duties under the provisions of this act and may engage in the private practice of law only to the extent that it will not interfere with or prevent performance of his duties as Public Defender and shall not otherwise engage in the practice of criminal law.

Section 7. *Determination of Insolvency.* The determination of insolvency of any accused person shall be made by the court and may be done at any stage of the proceedings. The Public Defender shall be allowed process of the court to summon witnesses to testify before the court concerning the financial ability of any accused person to employ counsel for his own defense.

If the trial court shall determine and adjudge, within one year after the determination of insolvency, that any accused was erroneously or improperly determined to be insolvent the District Attorney may, in the name of the state, proceed against such accused for the reasonable value of the services rendered to the accused and including all costs paid by the state or county in his behalf. Any amount recovered shall be deposited in the general revenue fund to the account from which the expenses of the office of Public Defender are paid.

Section 8. *Definition of Crime.* For purposes of this bill a "crime" shall mean a felony.

Section 9. *Employment of Clerical Help and Other Staff; Method of Payment.* The Public Defender may employ investigators, secretaries, and other clerical help as funds available may permit and as otherwise provided by law. Each of the counties of this state is empowered to expend moneys in furtherance of the provisions of this act.

In addition, any member of the bar in good standing may register his or her availability with the Public Defender of each district for acceptance of special assignments to represent insolvent defendants in accordance with the provisions of Section 12 of this act.

Section 10. *Expenditures for Public Defender's Office.* All payments for the salary of the Public Defender and the necessary expenses of his office, including salaries of his assistants and staff, shall be considered as being for a valid public purpose. The salary and necessary travel expenses of the Public Defender and his assistants shall be paid from state funds as appropriated by the legislature.

Section 11. *Services other than Counsel.* Upon finding in an *ex parte* proceeding that investigative, expert or other services are necessary and that the defendant is financially unable to obtain them, the court shall authorize the Public Defender or assigned counsel to obtain the services on behalf of the defendant. The court shall determine reasonable compensation for the services and direct payment out of the general fund of the county, to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of three hundred dollars.

Each claim for compensation shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

Section 12. *Conflict of Interests; Appointment of Counsel.* The court shall appoint separate counsel for defendants who have such conflicting interests that they all cannot properly be represented by the Public Defender, or when other good cause is shown. If at any time after the appointment of counsel the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel or to make partial payment for the representation he may terminate the appointment of counsel or authorize payment as provided by Section 13 of this act, as the interests of justice may dictate.

Section 13. *Compensation of Appointed Counsel.* An attorney appointed pursuant to Section 12 of this act shall, at the conclusion of the representation or any segment thereof, be compensated at a rate of \$15.00 per hour for time reasonably expended in such representation, and shall be reimbursed for expenses reasonably incurred. Where a defendant is charged with one or more felonies, compensation in excess of expenses shall not exceed \$500.00 for all such representation, including that related to an appeal or other post-conviction procedure.

Such compensation and reimbursement shall be fixed by the Circuit Court and shall be paid out of the general fund of the county. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

No counsel assigned hereunder shall seek or accept any fee for representing the defendant for whom he is assigned without approval of the court as herein provided.

Section 14. *Lien Created on Defendant's Property.* There is hereby created a lien, enforceable as hereinafter provided, upon all the property, both real and personal, of any person who is receiving or has received any assistance from any counsel or other services provided by this bill. Such assistance shall constitute a claim against the applicant and his estate, enforceable according to law in an amount to be determined by the court in which such assistance was rendered. Immediately after such assistance is rendered and upon determination of the value thereof by the court, a statement of claim showing the name and residence of the recipient shall be filed for record in the office of the clerk of the circuit court in the county where the recipient resides and in each county in which such recipient then owns or later acquires any property. Said liens shall be enforced on behalf of the state of Mississippi by the several public defenders or, if a county uses another plan, by the county attorney or, if there is no county attorney, by the district attorney for that district. Said liens shall be utilized to reimburse the county to defray the costs of the system used. The lien herein created shall be a continuing obligation, irrespective of any statute of limitations.

Section 15. *Acceptance of Gifts and Services.* Subject to the prior approval of the Circuit Judge, the Public Defender may accept gifts, grants or services from, or contract with nonprofit organizations, educational institutions and other state or federal agencies for the purpose of rendering legal aid to insolvent persons and for the purpose of studying, surveying and reporting on the need, use and availability of such aid in the State of Mississippi. The Public Defender or appointed counsel, with the concurrence of the Circuit Judge, may accept the assistance of students of the University of Mississippi School of Law participating in any training program sponsored by such School.

Section 16. *Section 2505 Amended.* Section 2505, Mississippi Code of 1942, Recompiled, is amended to read as follows:

Section 2505. In Capital Cases Copy of Indictment and Special Venire Served to be Given.

Any person indicted for a capital crime, shall, if demanded by him by motion in writing before the completion of drawing of the special venire, have a copy of the indictment and list of the special venire summoned for his trial delivered to him or his counsel at least one (1) entire day before said trial.

Section 17. *Savings Clause.* If any provision of this act or the application of such provision to any person, body or circumstance shall be held invalid, the remainder of this article or the application of such provision to persons, bodies or circumstances other than those concerning which it shall have been held invalid shall not be affected thereby.

Section 18. *Effective Date.* This act shall take effect and be in force from and after July 1, 1966.

REPORT OF THE RESOLUTIONS COMMITTEE

WHEREAS, on the morning of Friday, June 17, 1966, Chief Justice W. N. Ethridge, Jr., of the Supreme Court of the State of Mississippi, delivered a masterly address presenting to the Bar of Mississippi the need hereinafter described; and,

WHEREAS, it is the sense of the Mississippi State Bar that the recommendations by him are well founded and are greatly needed for the improvement of our judicial system and for the benefit of the citizens of our state;

THEREFORE, BE IT RESOLVED that we approve in principle the following steps for improving the administration of justice of our state, and refer them to a special procedural reform study committee of the Mississippi State Bar, which will be appointed by President John Armstrong at this meeting, for review, consideration, recommendation, and report to the next meeting of this Association;

First, that if determined to be necessary, a constitutional amendment be proposed confirming the grant to the Supreme Court of Mississippi of the rule-making power in substantially the following form:

Rule-Making Power.

The Supreme Court shall have the power to prescribe rules governing appellate jurisdiction, rules of practice and procedure, and rules of evidence for the judicial system. The Supreme Court shall, by rule, govern admissions to the Bar and the discipline of members of the Bar.

Second, that a constitutional amendment be proposed granting full authority to the Supreme Court through the Chief Justice thereof to appoint an administrator of courts, and such assistants as he may deem necessary to aid in the administration of the courts of the state, with related powers, such as assignment of judges to sit in circuits or districts where such action is necessary to aid in the prompt disposition of judicial business.

Third, that there be created by proper legislative action a judicial council as a continuing independent agency of the judicial system of Mississippi, with authority to carry on studies and make recommendations in judicial administration,

practice, procedure, evidence, and other matters relating to the administration of justice.

Fourth, that there be set up by proper legislative action an improved retirement system for justices and judges of the courts of Mississippi.

WHEREAS, it is now necessary that all persons accused of a crime have legal representation at the earliest critical state; and,

WHEREAS, in order to afford such representation for every person without financial means to secure legal counsel, the members of our Bar have volunteered in the public interest their services for such persons, which services are furnished at a financial sacrifice to such lawyers; and,

WHEREAS, such services to persons without financial means should be afforded at proper public expense so as to alleviate the burden placed on the private practitioners, and for other good reasons; and,

WHEREAS, the Officers and Commissioners of the Mississippi State Bar, at its meeting on June 16, 1966, unanimously proposed and recommended that the Mississippi State Bar, in convention assembled, approve and endorse in principle a Public Defender System in the State of Mississippi;

NOW, THEREFORE, BE IT RESOLVED that the Mississippi State Bar, in annual convention assembled, does endorse in principle a Public Defender System in the State of Mississippi, for the representation of those charged with a criminal offense and without financial means to obtain legal counsel; and

That we recommend to the Legislature of the State of Mississippi that it consider and adopt appropriate legislation providing a Public Defender System for our State; and

That the President of our Bar appoint a committee to draft a proper bill for such purposes for consideration and adoption by the Legislature of Mississippi.

WHEREAS, it behooves our Association at this time to recognize our beloved Secretary-Treasurer and Executive Director, Mrs. Alice Nevels, who is retiring from this important position with our State Bar, for the efficient, untiring, courteous, loyal, and dedicated services she has so graciously and effectively rendered this Association since 1932 and for which this Association has been so beneficially rewarded; and,

WHEREAS, in addition to her long and devoted services to our Association, she holds a B.A. degree from Millsaps College and a LL.B. degree from the Jackson School of Law. She served from 1942-1945 with the Women's Army Corps and upon her honorable discharge from the services with the rank of Captain, she practiced law and served as Deputy Tax Collector under Mrs. Thomas L. Bailey until she was again appointed as Secretary of our State Bar Association; and,

WHEREAS, she is also a member of our Hinds County Bar, the Mississippi State Bar, and the American Bar Association; Secretary of the Board of Bar Admission of Mississippi; a member of the American Judicature Society of the National Conference of Bar Executives; a charter member and past President of the Pilot Club of Jackson; a member of the Business and Professional Women's Club; a member of the American Association of University Women; a member and past

Executive Vice-Commander of the Henry H. Graves Post No. 1 of the American Legion; a member of the Order of Eastern Star; Business Manager of the Mississippi Lawyer; and is also Secretary to the Mississippi Bar Foundation; and,

WHEREAS, she has so ably served our Association with dignity and exceptional distinction and her record is exacting of magnificent progress, it is our desire to express to our beloved Secretary our heartfelt appreciation and gratitude;

NOW, THEREFORE, BE IT RESOLVED, that the Mississippi State Bar, in annual Convention assembled in Jackson, Mississippi, on this the 18th day of June, 1966, express to Mrs. Alice Nevels the abiding affection and highest esteem of our membership, and our sincere thanks and appreciation for outstanding, efficient, courteous, and dedicated services rendered as our Secretary-Treasurer and Executive Director. Furthermore, by this expression we acknowledge, individually and collectively, our indebtedness to her and look forward to our continued association with her in the future.

BE IT FURTHER RESOLVED, that this Resolution be spread upon the minutes of the Association and that a copy hereof be presented to Mrs. Alice Nevels.

WHEREAS, the 61st Annual Convention of the Mississippi State Bar, held at the Heidelberg Hotel, Jackson, Mississippi, June 16-18, 1966, has been one of the most outstanding, profitable, and enjoyable meetings in the history of our Association; and

WHEREAS, the entire membership of the Bar, particularly those attending this Convention, feel deeply indebted to all those who have worked so capably, so efficiently, and with steadfast and loyal devotion, in planning and arranging this Convention;

NOW, THEREFORE, BE IT RESOLVED, that the membership of the Mississippi State Bar, in Convention assembled, hereby express our heartfelt appreciation to the following:

Our able and distinguished President, Honorable Orma R. Smith, for his outstanding and capable leadership which has contributed immeasurably to the growth and progress of our Association and for his tireless devotion to duty, and to our other Officers, Honorable John T. Armstrong, Honorable Sherman L. Muths, Jr., and Mrs. Alice Nevels for their valuable services;

Our State Bar Commissioners, the Officers of the Mississippi Junior Bar, Honorable B. B. McClendon, Jr.; President, and the Directors of the Junior Bar;

Our Program Committee, Judge N. S. Sweat, Jr., Chairman;

Our Local Arrangements Committee, Honorable Joe H. Daniel, Chairman;

The Ladies' Activities Committee, Mrs. John T. Kabbes, Chairman, and Mrs. Homer Lee Howie, Co-Chairman;

The Registration Personnel, Reporters, Secretary to the President, Mrs. Raymond Wadkins, and Convention Publicity Director, Honorable Joe L. Howell, Jr.;

All other Committee Chairmen and members who served during the year and at this Convention;

Our featured speakers, Honorable William W. Falsgraf, Honorable William L. Waller, Honorable Percy Foreman, Honorable W. N. Ethridge, Jr., Honorable John W. Wade, Honorable John A. H. Murphree, Honorable William F. Walsh, Honorable James J. Carter, Honorable John P. Frank, Honorable Joshua M. Morse, III, and Dr. Charles W. Jarvis, for their valuable contribution to our program;

Each of our members who introduced our speakers, served as moderators, and accepted other responsibilities related to our program, which assignments were performed with distinction;

The Jackson Legal Secretaries Association for efficient and complimentary secretarial services throughout the Convention;

The City of Jackson, the Hinds County Bar Association, the Hinds County Lawyers' Wives Auxiliary, and the management, staff, and employees of the Heidelberg Hotel for their cooperation in planning and providing for our comfort, convenience, and pleasure;

Our treasured friends and fine associates who extended so many courtesies and hospitality for our membership and our families;

All our guests whose presence added so much to our Convention and our enjoyment thereof;

And to the representatives of the press and other news media.

BE IT FURTHER RESOLVED, that our Executive Director be requested to forward copies of this Resolution to all appropriate persons and that a copy be spread on the permanent records of this Association.

REPORT OF STUDY COMMITTEE

The Study Committee of the Mississippi State Bar held two meetings during the year. Several sub-committees were appointed to do research and make a special study of certain subjects. Several sub-committee meetings were held by the sub-committee chairmen and the members. Some of the proposals were studied and rejected. Others were approved and recommended for further study. There were no new proposed bills approved by the Study Committee this year but a number of meritorious bills are being studied by the Study Committee and sub-committees and we recommend further study by the incoming Study Committee.

A number of meritorious bills were approved by the Study Committee last year and were approved by the State Bar Association. A number of these bills were presented to the 1966 Legislature by the Chairman of the Legislative Committee, Honorable Dan H. Shell, and the following bills have been passed by the Legislature and signed by the Governor, towit:

Item I. House Bill No. 88.

An act to amend Section 2798, Mississippi Code of 1942, Recompiled, providing for limitation of garnishee's liability when garnishee fails to answer; and for related purposes.

Item II. House Bill No. 95.

An act making it a misdemeanor to print, circulate, sell, send or deliver any document simulating a form of court or legal process.

Item III. House Bill No. 224.

An act to amend Section 500, Mississippi Code of 1942, Recompiled, to allow a nonresident witness to make an affidavit in attesting a will.

Item IV. House Bill No. 405.

An act to amend Section 1872, Mississippi Code of 1942, so as to provide for Waiver of Process by Guardians and conservators.

Item V. Senate Bill No. 1779.

An act to amend Section 1616, Mississippi Code of 1942, Recompiled, so as to allow appeals from the County court to be heard in vacation.

Item VI. Senate Bill No. 1800.

An act to amend Section 1228, Mississippi Code of 1942, Recompiled, so as to allow the Chancellor to try causes, deliver opinions and sign decrees in vacation.

Item VII. Senate Bill No. 1980.

An act to amend Section 9732, Mississippi Code of 1942, Recompiled, as amended, to protect bona fide purchasers or encumbrancers for value without notice. (Homestead Exemption charge backs.)

The Uniform Commercial Code Bill was not a Study Committee bill but was more of a general Bar bill handled by a special committee but our members did cooperate fully in helping to pass this important bill.

Several other important Study Committee bills are now pending in the legislature and may or may not be passed. We, therefore, recommend that all of the Study Committee bills which have been approved by the Mississippi State Bar and the Study Committee be followed through to passage by the Mississippi State Legislature.

For sake of brevity we will not list here all the proposed bills being studied by our committee at this time but we recommend that the incoming Study Committee give further study to these bills as listed by the minutes of the last meeting of our committee.

REPORT OF TAXATION COMMITTEE

Following appointment of members to the Taxation Committee and acceptance, a meeting of the full committee was held in Jackson, Mississippi, for the purpose of planning the year's work and designating assignments.

On recommendation from the committee to President Orma R. Smith, a member of the Taxation Committee was appointed to the Unauthorized Practice Committee. A sub-committee was appointed to screen complaints of practice encroachments to be referred to the Unauthorized Practice Committee.

A sub-committee was appointed to contact officials of the Mississippi Society of Certified Public Accountants and obtain adoption and compliance by said organization with the Statement of Principles of Practice by Lawyers and Accountants as adopted and ratified by the Mississippi State Bar at its annual convention at Biloxi, Mississippi, in June 1961.

Recommendations were made about types of programs presented by the School of Continuing Legal Education and the desirability of having such programs to include the tax aspects and tax pitfalls affecting subject matter and offering the services of members of the Taxation Committee to help with such matters where desired.

A proposal to look into the matter of formation of a Taxation Section within the framework of the Mississippi State Bar was approved. Honorable Sydney Smith and Honorable J. Meredith Wood met with the Board of Bar Commissioners in Jackson and were authorized to proceed with research and plans for a Taxation

Section subject to further consideration of the Bar Commissioners preliminary to presentation at the Annual Convention. Plans for formation of a Taxation Section were abandoned in favor of closer cooperation and participation in programs with the University of Mississippi Law School's program of Continuing Legal Education.

The Taxation Committee in cooperation with the University of Mississippi School of Continuing Legal Education planned and presented a Tax Seminar on Tax Problems of Real Estate May 27, 1966, at Jackson, Mississippi.

It was believed to be more practical to utilize the facilities of the University of Mississippi School of Law and Department of Conferences and Institutes in presenting technical programs and to have the use of their Director and facilities as compared with formation of a Section which by stipulation of the Bar Commissioners would be required to be self supporting financially and to be responsible within its own framework for consistently staging and arranging its programs. Greater cooperation was urged between the members of the Taxation Committee and the University of Mississippi School of Continuing Legal Education.

Appointment was made for representation of a new delegate on a three year term for membership in the Special Liaison Tax Committee of the Southeastern Region, Internal Revenue Service, Atlanta, Georgia. A request for reimbursement of actual travel expense of delegates to annual technical meeting was made with detailed information furnished the Chairman of the Budget and Finance Committee.

We wish to express sincere appreciation to the Mississippi State Bar Commissioners, Director of the University of Mississippi School of Continuing Legal Education, Co-Chairmen and Committee members for their splendid cooperation in the activities of this Committee.

REPORT OF TRAFFIC COURT COMMITTEE

The Traffic Court Committee of the Mississippi State Bar continued to pursue its objective of upgrading traffic courts within the State of Mississippi during the past year, both as a committee and on an individual basis by the various members of the committee.

The City of Gulfport commenced a pilot program using teenage jurors in an advisory capacity to the court in dealing with teenage traffic offenders. This program proved highly successful on the local level, and will be renewed after school commences for the fall term, 1966. The Traffic Court Committee would recommend to municipal judges and prosecutors in other areas of the state, the possibility of attempting a similar program for their respective courts. Any community attempting to embark on a similar program, however, should be fully aware that considerable planning and community support are needed not only to institute the program, but also to insure its continuity.

At a meeting of the committee held in Jackson in March 1966, the members of the committee discussed various problems facing traffic courts in the State of Mississippi, and agreed to submit certain general recommendations for further consideration by officers and committees of the State Bar.

(1) In order to assure respect for the judicial system, and in order to deal with the ever increasing problem of traffic safety, the State of Mississippi urgently requires an effective and uniform traffic court system.

(2) In the interim period, efforts must be concentrated to upgrade the existing court system.

(3) Because of the growing importance of the traffic safety program, the committee urges that the committee on arrangements for future State Bar meetings seriously consider including on the program an outstanding speaker or panel to deal with one of the many interesting developments of the traffic court or related subjects.

(4) Because of the tremendous success of the Law-Layman Conference held in Jackson in the spring of 1965, the committee would further recommend that the Bar or appropriate committee cooperate with other interested organization or organizations to hold a Law-Layman Conference for traffic courts during the spring of 1967. Many state bar associations and regional meetings of the American Bar Association often hold a one day Law-Layman Conference in connection with the annual meeting. The committee considers that this possibility deserves consideration by the commissioners of the State Bar.

The Traffic Court Committee of the Mississippi State Bar Association again wishes to emphasize that the only contact of most citizens with the judicial system of this state is through the traffic courts. In the final analysis, respect for law and order and for our judicial system must depend upon the quality of the lowest courts within the judicial system.

APPENDIX B
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Harry L. Corban
R. L. Corban, Jr.
Carroll J. McLaurin
Richard M. Truly, Jr.
P. O. Box 344
James M. Walker
Box 36

FLORENCE

Harry Lee Kelley
Route 1, Box 256

FOREST

T. Marx Huff
P. O. Box 87
Osborn G. Idom
P. O. Box 336
James Walter Lee
Box 385
Judge Percy M. Lee
Roy Noble Lee
P. O. Box 370
Tom Stewart Lee
P. O. Box 16
Howard B. McCrory, Jr.
P. O. Box 46
James Gray McLemore,
Jr.
706 Hillsboro
William C. Thompson
P. O. Box 147
O. B. Triplett, Jr.
Box 247
O. B. Triplett, III
P. O. Box 247

FOXWORTH

Uhl Poole Fornea
P. O. Box 314

FULTON

T. Victor Bishop
P. O. Box 563
J. Hollis Brown
P. O. Box 545
William Herman Camp
Euple Dozier
P. O. Box 284
Percy A. Martin
P. O. Box 491
Nell C. May
P. O. Box 538
Malcolm T. Yawn
P. O. Box 513

GLEN

Donald Ray Downs
Route 1

GLOSTER

Fred Alvin Anderson, III
Box 368
Walker J. Carney, Jr.
P. O. Box 99
J. T. Lowrey
Box 429
Joe Upton

GREENVILLE

George Douglas Abraham
Box 24
Nathan P. Adams, Jr.
P. O. Box 271
Edward J. Bogen
Wash. Cty. Svcs. &
Loan Assn. Bldg.
536 Washington
Ave.
Marvin Burchfield
1137 Lourdes St.
Roy D. Campbell
Box 895
Frank Carlton
P. O. Box 442
George L. Cottingham,
Jr.
P. O. Box 40
Errett Evan Davis, Jr.
Commercial National
Bank
Ralph D. Davison
Box 918
Fountain D. Dawson
Leyser Building
P. O. Box 1151
Anse Dees
P. O. Box 460
Fred C. Delong, Jr.
P. O. Box 895
Howard Dyer, Jr.
309 Weinberg Bldg.
Howard Dyer, III
309-10 Weinberg Bldg.

Guy Kenner Ellis, Jr.
635 Fairview Ave.
Holland O. Felts
P. O. Box 1098
Jerome S. Hafter
Box 918
Edward B. Hill, Jr.
P. O. Box 5613
Frank Watson Hunger
P. O. Box 918
W. C. Keady
Box 895
William C. Keady, Jr.
P. O. Box 895
Ernest Kellner, Jr.
Weinberg Bldg.
Raymond V. Kimble, Jr.
205-08 Weinberg Bldg.
J. A. Lake, Jr.
Box 918
Robert Hart Lake, Jr.
124 S. Poplar St.
Robert T. Love
Box 1354
Phillip Mansour
Woolworth Bldg.
Burrell O. McGee
Box 918
W. M. McGough
P. O. Box 660
W. L. McIlwain
P. O. Box 558
Horace L. Merideth, Jr.
P. O. Drawer 99
H. A. Miller
Box 1334
Julian David Orlansky
Box 1334
S. Ira Pittman
405-10 Weinberg Bldg.
Judge Zelma W. Price
Box 766
Tony P. Provenza
P. O. Box 357
Eugene J. Raphael
Woolworth Bldg.
James Robertshaw
P. O. Box 99
James L. Robertson
P. O. Box 895
Geo. Ramsey Russell
Weinberg Bldg.
Laurance J. Sievers
P. O. Box 506
George H. Slade
P. O. Box 1214
Earl Solomon
P. O. Box 453
Earl S. Solomon, Jr.
P. O. Box 453
Walter B. Swain, Jr.
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E. B. Taylor
Leyser Bldg.
Box 528
Judge S. B. Thomas
P. O. Box 395
William Thomas, Jr.
948 Arnold Ave.
Charles S. Tindall
Box 918
Charles W. Wade
200 Leyser Bldg.
John C. Webb
P.O. Box 676
Burwell B. Wilkes
Washington Cty. Svgs.
& Loan Bldg.
536 Washington
Ave.
Joseph E. Wroten
Box 1334
Douglas C. Wynn
P. O. Box 525
365 May Building

GREENWOOD

Edward J. Antoon
Box 417
A. H. Bell
1311 River Road
Norman C. Brewer
Box 411
Dorman Buford
Suite 202
Leflore Bank Bldg.
James W. Burgoon, Jr.
105 Fulton Street
Joseph G. Colson, Jr.
P. O. Box 364
Charles Milton Deaton
Box 411
George H. Dulin
P. O. Drawer 657
Gray Evans
Box 411
George A. Everett
P. O. Box 593
John J. Fraiser, Jr.
Whittington Building
William W. Franklin
808 Parsons St.
Arnold F. Gwin
P. O. Box 725
James E. Higgin-
botham, II
P. O. Box 941
O. L. Kimbrough
Box 516
Hardy Lott
P. O. Box 725
R. Cunliffe McBee
Drawer 657
George Hite McLean
Box 516

Pearl McLellan
Box 54
W. H. Montjoy
Box 906
Yerger Morehead
Whittington Bldg.
Frank K. Odom
P. O. Box 674
H. Talbot Odom
Box 674
Porter W. Peteet
P. O. Box 263
James M. Pierce
P. O. Box 263
James C. Pittman, Jr.
% Odom & Odom
Box 674
Judge Charles Pollard
P. O. Box 393
William H. Roberson
P. O. Box 263
J. Stanny Sanders
P. O. Box 725
Gordon L. Smith
804 Bell Ave.
Richard L. Smith
Box 246
Seth Wheatley, Jr.
Box 389
W. M. Whittington, Jr.
P. O. Box 941
Fred Witty
P. O. Box 912

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Jim McRae Criss
35 First Street
Bradford J. Dye
Box 917
William H. Fedric
Grenada Bank Bldg.
Jay Gore, Jr.
Box 901
Robertson Horton
P. O. Box 154
John T. Keeton
P. O. Box 602
Lucille T. Latta
P. O. Box 922
William A. Lomax
Evans Bldg.
Mitchell M. Lundy
11 Evans Bldg.
Judge Marshall Perry
Evans Bldg.
Leon E. Province
P. O. Box 99
William O. Semmes
P. O. Box 567
Bryant Jerome Shaw
1176 South Mound St.

Lida B. Shaw
1176 South Mound St.
Samuel J. Waits
116 South Green Street

GULFPORT

Bidwell Adam
1607 24th Ave.
E. J. Adam, Jr.
300 Hewes Bldg.
Robert B. Adam
P. O. Box 1076
Frank W. Alexander
Box 88
George W. Allen
Suite 211, Gulf South
Bldg.
Jo Drake Arrington
410 Hewes Bldg.
Robert Barber, Jr.
P. O. Drawer DD
Robert Adam Bennett
P. O. Box 1625
Thomas Davis Berry, Jr.
1319—24th Avenue
E. D. Bostrom
P. O. Box 2223
Rae Bryant
P. O. Box 10
Pete H. Carruba
P. O. Box 1477
Everett E. Cook
P. O. Drawer C
Bruce G. Cornell
3rd Floor, Hewes Bldg.
David Cottrell, Jr.
Box 225
William F. Dukes
123 Bayou Circle
Phil Ray Dunnaway
P. O. Box 727
James S. Eaton
P. O. Box 225
G. E. Estes, Jr.
Box 88
William Estopinal
Medical Building
John A. Evans
1317—24th Ave.
Milton Ray Fairchild
412 Pass Road
Jason H. Floyd
P. O. Box 1107
E. J. Ford, Jr.
201 Hatten Bldg.
Charles R. Galloway
P. O. Box 225
John M. Gardner
1425—24th Ave.
Virgil G. Gillespie
310 Gulf National
Bank Bldg.
D. M. Graham
203 Hardy Bldg.

D. M. Graham, Jr.
203 Hardy Bldg.
Richard B. Graves, II
P. O. Box 1441
P. D. Greaves
Suite 308,
Gulf Nat'l Bank
Bldg.
T. J. Buchanan Heiss
1510—19th Avenue
Harry P. Hewes
Room 304, Hewes
Bldg.
Gaston H. Hewes
Hewes Bldg.
Judge William G. Hewes
P. O. Box 454
Viola J. Hilbert
Box 4043
Forrest E. Holder
22 Poplar Circle
Clyde O. Hurlbert
P. O. Box 902
W. Roderick Johnson
P. O. Box 1720
Oscar B. Ladner
P. O. Box 727
Eaton A. Lang, Jr.
P. O. Box 225
Ewart J. Lindsay
3600 10th St.
Edward M. Lindsey
Box 524
H. Lee Lindsey
P. O. Box 457
Floyd J. Logan
309 Hatten Bldg.
William E. Logan
309 Hatten Bldg.
Judge Luther W. Maples
26th Avenue
Ernest G. Martin, Jr.
P. O. Box 730
R. B. Meadows
Hewes Bldg.
Webb M. Mize
310 Gulf Nat'l Bank
Bldg.
John S. Morris
304 Gulf South Bldg.
George E. Morse
P. O. Box 265
Nancy Wood Morse
P. O. Box 265
Stanford E. Morse, Jr.
P. O. Box 265
Sherman L. Muths, Jr.
P. O. Box 127
Albert L. Ncaise
P. O. Box 39
Paul M. Newton
2414 Fourteenth Street
H. C. O'Connor
4512 Jefferson Ave.

William R. Owings
Box 711
Owen T. Palmer, Jr.
P. O. Box 717
Robert D. Portwood
P. O. Drawer 760
George M. Quin
1015 Pass Road
Clayton Rand
The Dixie Press
Donnie Dean Riley
P. O. Box 1613
Thomas Glover Roberts
1006—2nd St.
Thomas N. Roberts, Jr.
P. O. Drawer Y
George Rosetti, Jr.
P. O. Drawer "Y"
Scotty R. Rosetti
Box 1297
Ernest L. Shelton, III
4708 Jefferson Ave.
Donald O. Simmons
P. O. Box 1206
Upton Sisson
1913 Fifteenth Street
George R. Smith
P. O. Box 177
Herbert J. Stelly, Sr.
P. O. Drawer "Y"
Thomas L. Stennis, II
P. O. Box 10
William L. Stewart
P. O. Box 717
Ben H. Stone
P. O. Box 225
Thomas B. Sumrall
Hatten Bldg.
Charles T. Sykes, Jr.
1317—24th Ave.
Robert L. Taylor
P. O. Box 730
Hollis C. Thompson, Jr.
Box 580
R. W. Thompson, Jr.
310 Gulf Nat'l Bank
Bldg.
McRae Turner, Jr.
Miss. Power Co.
Fred Haden Walker
2817—25th Ave.
Harry C. Walker
P. O. Box 1529
Knox W. Walker
408 Hewes Building
Ben M. West
P. O. Box 1836
Douglas Knox White
P. O. Box 985
Neil W. White
P. O. Box 985
Neil Ware White, Jr.
Abstract Bldg.

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1805 19th Ave.
Richard L. Yarbrough
P. O. Box 1138
Ralph D. Young
P. O. Drawer Y

HATTIESBURG

Lawrence Arrington
P. O. Box 22
Robert E. Arrington
P. O. Box 22
Bruce C. Aultman
P. O. Box 750
Dorrance Aultman
P. O. Box 750
B. H. Baker
Box 801
Stone D. Barefield
611 Carter Bldg.
J. C. Bell
P. O. Box 223
Carl E. Berry, Jr.
112 West Front St.
J. Lee Bilberry
302 First Federal
Bldg.
M. D. Brett
Citizens Bank
Irvin H. Buchalter
P. O. Box 506
Frank Wilson Buckley
1011 Pitts Street
Robert L. Calhoun
Box 461
Lester Clark
302 First Federal
Bldg.
Dudley W. Conner
Conner Bldg.
Harold B. Cubley
Box 969
Edward J. Currie
P. O. Box 29
Edward J. Currie, Jr.
P. O. Box 29
George G. Currie
Box 626
George W. Currie
Box 626
George C. Curry
P. O. Box 1709
T. W. Davis, Jr.
P. O. Box 529
James K. Dukes
P. O. Box 822
James Finch
P. O. Box 1169
Lawrence Y. Foote
Drawer 1231
Sam Hooper Gammill
303 First Federal
Bldg.

Herbert R. Ginsberg
First Federal Bldg.
Paul E. Grady
Box 1349
Reginald A. Gray, Jr.
201 Carter Bldg.
John S. Grove
220 Rebel Bldg.
Box 1024
Wallace R. Gunn
Drawer 1729
Judge Stanton A. Hall
P. O. Box 135
Judge William
Haralson
Box 132
F. C. Hathorn, Jr.
Box 865
Rowland W. Heidelberg,
Jr.
401 Ross Bldg., Box
1070
Robert E. Hill
Carter Bldg.
P. O. Box 62
Paul H. Holmes
P. O. Box 822
William J. Huff
302 First Federal Bldg.
Ralph S. Johnson
P. O. Box 1390
Rex K. Jones
202 Geiger Bldg.
P. O. Box 125
W. Arlington Jones
Suite 405, Carter
Building
William F. Jones
Box 95
Karl W. Kepper
Box 251
Marie P. Kepper
Box 251
Joe R. King
304-05 Citizens Bank
Bldg.
Box 227
Robert Lawrence Lennon
3rd Floor, First Fed.
Bldg.
Alvin N. London
P. O. Box 426
James F. McKenzie
401 Ross Bldg.
Frank D. Montague, Jr.
201-04 Carter Bldg.
Alfred Moore
111½ E. Front St.
Box 95
C. M. Morgan, Jr.
Box 1333

Forrest M. Morris, Jr.
215 E. Front St.
William V. Murry
204 Conner Bldg.
Mildred W. Norris
P. O. Box 1633
Thomas D. Ott
307 Citizens Bank
Bldg.
Howard L. Patterson
Box 808
Claude F. Pittman, Jr.
Box 227
Edwin Lloyd Pittman
P. O. Box 1445
Jack Homer Pittman
Box 227
Homer Pittman
Box 227
Moran M. Pope, Jr.
P. O. Box 750
William L. Richmond
119 Front St.
Box 1148
Thomas Jack Riley
300 Forrest Street
M. M. Roberts
Box 870
W. L. Shappley
P. O. Box 6
James Simrall, Jr.
P. O. Box 750
E. E. Staton
Box 54
C. W. Sullivan
P. O. Box 1568
R. M. Sullivan
P. O. Box 1568
T. Harris Sullivan
Ross Bldg.
Dan Gary Sutherland
401 Ross Bldg.
Box 1070
Joe A. Thompson
Box 348
J. Kearney Travis
Citizens Bank Bldg.
Drawer 590
James K. Travis, Jr.
P. O. Box 590
Robert A. Walker
P. O. Box 1568
Jack B. Weldy
P. O. Box 24
Darl Jene Whitecotton
P. O. Box 870
William W. Wicht, Jr.
610 Carter Bldg.
Emmett Neil Young
201 Carter Bldg.
Francis T. Zachary
P. O. Box 24

HAZLEHURST

S. E. Allen, Jr.
P. O. Box 208
Cecil L. Allred, Jr.
John T. Armstrong
P. O. Box 190
John T. Armstrong, Jr.
P. O. Box 190
E. R. Arrington
Box 347
R. O. Arrington, Jr.
Box 347
Donald C. Cooley
P. O. Drawer 30
Harris B. Henley
Box 509
W. S. Henley
Box 509
Harry O. Hoffman, Jr.
Bank of Hazlehurst
Bldg.
Carroll Kemp
P. O. Box 226
Julius L. Lotterhos, Jr.
Box 509
Lena C. Zama
P. O. Box 108

HERNANDO

Dudley Black Bridgforth,
Jr.
Rose Lee Franks
Boyce Lee Garner
17 Union Street
William F. Hagan, Jr.
Box 5
Lee Virden Hamberlin
P. O. Box 715
F. C. Holmes, Jr.
William L. Rone
Joel P. Walker
Edward Lee Whitten
17 Union Street
W. E. Wilroy, Jr.
Box 5
W. E. Wilroy
Box 5

HICKORY

W. M. Everett
Box 115
S. E. McGee

HOLLANDALE

W. Scott Thompson
Box 307

HOLLY SPRINGS

Fred M. Belk, Jr.
Box 66

John W. Bryant, Jr.
Merchants & Farmers
Bank Bldg.
Robert P. Crutcher
Box 66
Wall Doxey, Jr.
Lester G. Fant, Jr.
P. O. Box 66
Sidney L. Hurdle
First State Bank Bldg.
John L. Kennedy
North Side of Square
Herbert S. Phillips, Jr.
353 College St.
Fred E. Swaney
Van Dorn Ave.

HOUSTON

H. B. Abernethy
Woodrow Wilson
Brand, Jr.
Box 128
Thomas B. Davis
432 S. Jackson St.
John P. Fox
P. O. Box 167
James S. Gore
P. O. Box 367
A. E. Hawkins
Box 266
C. H. McCraime, Jr.
P. O. Box 231

INDIANOLA

Richard M. Allen
404 Main Street
Dean Belk, Jr.
Box 229
A. B. Clark
Box 88
Judge Arthur B. Clark
Box 229
Frank O. Crosthwait, Jr.
Masonic Building
Howard Q. Davis
Box 229
William M. Dye, Jr.
Masonic Bldg.
Gordon L. Lyon
Masonic Bldg.
J. H. Price
David M. Quinn, Jr.
Box 172
C. P. Ritchey
Box 628
Oscar B. Townsend
Box 229

ITTA BENA

Cleveland Davis
Box 98
Perry W. Morton
Box 82

IUKA

J. O. Clark
Box 319
James Barry Finch
Box 335
J. D. Finch
Cecil Lamar Sumners

JACKSON

Lee B. Agnew
418 Yazoo St.
John E. Aldridge
Box 1699
Chalmers W. Alexander
Box 291
James A. Alexander, Jr.
P. O. Box 977
Julian P. Alexander, Jr.
Box 1367
Paul Alexander
P. O. Box 1353
William A. Allain
P. O. Box 220
James E. Allen
P. O. Box 1200
Leigh B. Allen, III
P. O. Box 119
Sam S. Allred
Woodmen of the
World Bldg.
218 S. President
St.

Alexander A. Alston, Jr.
P. O. Box 158
Lester Alvis, Jr.
P. O. Box 1507
C. Thomas Anderson
1605 Riverwood Drive
Daniel Thomas Anderson
P. O. Box 263
Carl F. Andre
4445 Audubon Park
Drive
B. Galloway Austin
518 E. Pascagoula St.
Roy C. Ayles
2429 Northingham
Road
William A. Bacon
Box 15
Judge Charles T. Barber
P. O. Box 1734
Frank D. Barber
New Capitol Building
Harold J. Barkley, Jr.
P. O. Box 1704
Henry E. Barksdale
P. O. Box 2337
James A. Barnett
Box 2442
Robert C. Barnett
Box 2442
Ross R. Barnett
P. O. Box 1288

- Ross R. Barnett, Jr.
Box 1288
John Edward Bat
575 Woodward Avenue
Stephen L. Beach, Jr.
P. O. Box 663
Lloyd Lamar Beacham,
Jr.
822 Plaza Bldg.
Wirt Adams Beard
P. O. Box 1846
Bobby Ray Beatty
P. O. Box 1127
James A. Becker, Jr.
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Thomas A. Bell
P. O. Box 1084
J. A. Bellan, Jr.
690 First Nat'l
Bank Bldg.
Richard Thomas Bennett
P. O. Box 326
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766 Lenox Drive
Walter Berry
% Cabell Electric Co.
Box 1199
Robert A. Biggs, Jr.
P. O. Box 1370
Louis S. Bills, Jr.
P. O. Box 622
Richard A. Billups, Jr.
P. O. Box 1056
Alvin Binder
P. O. Box 25
Samuel E. Birdsong, Jr.
4047 Pine Hill Drive
Melvin B. Bishop
Box 1084
Walter R. Bivins
235 Cooper Road
D. Carl Black
P. O. Drawer 1250
William P. Black
5939 Baxter Drive
Tom L. Blissard
King Edward Hotel
Grover L. Boone
4660 Meadowridge
Drive
James A. Boone
P. O. Box 2182
Carl C. Bostic
200 S. President,
Barnett Bldg.
Francis S. Bowling
431 Tombigbee, Court
Square S. Blvd.
Hartwell Bowling
Box 78
Jack Clemence Boyles
731 Roseneath Street
Richard C. Bradley
406 Rollingwood Drive
- Judge Tom P. Brady
Associate Justice,
Supreme Court
New Capitol
Audrey W. Brand
Box 8222 Battlefield
Station
Jack W. Brand
Box 158
S. M. Brand
Box 8222 Battlefield
Station
Dan E. Breland
P. O. Box 765
Charles A. Brewer
P. O. Box 1704
Billy G. Bridges
P. O. Box 5767
Kenneth M. Britt
1275 Petroleum Bldg.
Charles L. Brocato
P. O. Box 22
Harmon W. Broom
418½ E. Pearl St.
Box 1275
R. H. Broome
P. O. Box 5915
Joseph E. Brown, Jr.
Box 2091
J. T. Brown
P. O. Box 291
R. Jess Brown
125½ N. Farish Street
W. F. Browning, Jr.
4730 Shadow Wood
Drive
Douglas H. Brumfield
165 Carmel Ave.
E. L. Brunini
P. O. Box 119
Clifton E. Bryant
4250 Athens Dr.
Joe M. Buchanan
211 Imperial Drive
Cary E. Bufkin
Box 1172
James D. Buford
Box 1172
Delos H. Burks
Asst. Atty. General
New Capitol
Robert Burns
Box 158
Jack C. Burrell
P. O. Box 78
Charles W. Busby
Box 2448
William A. Busby
418 Yazoo St.
Charles C. Bush
5266 Saratoga Drive
Millard M. Bush
P. O. Box 25
- George H. Butler
P. O. Drawer 1250
Wilton V. Byars
1617 Wilhurst St.
Joseph B. Cadwallader
245 Sykes Road
T. Eugene Caldwell
401 Barnett Bldg.
P. O. Box 1704
Edwin T. Calhoun
1626 Lockwood
K. Hayes Callicutt
Box 1172
Robert C. Cannada
P. O. Drawer 1250
John Wesley Capers
Suite 611, Barnett
Bldg.
Nattie P. Caraway
Box 2337
Taylor Carlisle
756 East Northside Dr.
Lyle Carroll, Executive
Secretary
Miss. Insurance Agents
Assn.
P. O. Box 1136
Charles A. Carter
P. O. Box 2216
William O. Carter, Jr.
P. O. Box 157
Craig Castle
P. O. Box 566
Edward L. Cates
P. O. Box 2005
Reynolds Cheney
Box 1666
James K. Child, Jr.
Box 157
W. M. Childress
P. O. Box 12
Bernard W. N. Chill
P. O. Box 1482
Clifford C. Chittim
Box 427
Richard Chotard, Jr.
P. O. Box 1200
Charles Clark
P. O. Box 1046
Grover C. Clark
107 Electric Bldg.
Hollis M. Clark
135 Silvey Ave.
Thurman L. Clark
4143 Carol Drive
William W. Clark
Box 1429
Neal Clement
1411-13 Standard
Life Bldg.
James L. Clemons
1105 Garden Park
Drive

- John W. Coalter
325 Sun Drive
William Thad Cochran
P. O. Box 650
- J. W. Cocke
1339 Dep. Cty. Bank
Bldg.
- Dr. John V. Cockrell
1816 St. Ann Street
- Marvin A. Cohen
P. O. Box 427
- Curtis E. Coker
Box 1084
- Walter D. Coleman
Asst. Atty.-General
New Capitol Bldg.
- William DeWitt
Coleman
828 Brairfield Road
- William F. Coleman
431 Tombigbee
- Aline I. Collum
416 Plaza Bldg.
- James O. Conner
821 Madison Street
- A. S. Coody
776 Northwest St.
- Charles William Cook
P. O. Box 2373
- Henry D. Cook
1216 Raymond Road
- L. Stanley Cook, Jr.
Sterling Towers,
Apt. 509
- Robert F. Cooper
Box 1450
- John R. Countiss, III
P. O. Box 241
- H. A. Courtney
1231-33 Cty. Bank
Bldg.
- Bobby Louis Covington
P. O. Drawer 2428
- Frederick G. Cox, Jr.
P. O. Box 4311
- Justin Lamar Cox
P. O. Box 158
- Judge William Harold
Cox
P. O. Box 2447
- William Harold Cox, Jr.
Suite 1741, Dep. Cty.
Bank Bldg.
- John A. Crawford
P. O. Drawer 1250
- Rufus Creekmore
822-25 Plaza Bldg.
- Wade H. Creekmore
1000 Bankers Trust
Plaza Bldg.
- Thomas R. Crews
P. O. Box 977
- Alfred N. Crisler
431 Tombigbee Court
Square
South Bldg.
- Bert Crisler
813 Deposit Cty.
Bank Bldg.
- Charles W. Crisler, Jr.
431 Tombigbee,
South Bldg.
- Thomas W. Crockett, Jr.
Box 961
- Earl R. Cruthirds
Box 1947
- E. Hugh Cunningham, Jr.
P. O. Box 1288
- Arthur Dale Currie
805 Dep. Cty. Bank
Bldg.
- Joe H. Daniel
Box 1084
- Dale Danks, Jr.
Suite 705, Bankers
Trust Bldg.
- R. A. Darden
644 Choctaw Rd.
- Thomas Edwin Davidson
Box 663
- Charles Ray Davis
P. O. Box 158
- Jack Roy Davis
218 S. President St.
- Col. James L. Davis,
Director
Miss. Selective Service
Federal Building
- Joe Sanford Deaton
4243 Meadowlane Dr.
- Joe T. Dehmer, Jr.
First Nat'l Bank of
Jackson
P. O. Box 291
- Henry Lee Denton, Jr.
5372 Jamaica Drive
- William L. Denton
4566 Meadowlane
- Albert Dickens, Jr.
Box 744
- R. R. Dinsmore
4096 Redwing Ave.
- J. Hubern Dodd
212 Barnett Bldg.
- Richard W. Dortch
P. O. Box 119
- James K. Dossett
1801 Deposit Guar.
Bank Bldg.
- Colbert Dudley
2329 Oakhurst Drive
- Vardaman S. Dunn
Suite 1741, Dep. Cty.
Bank Bldg.
- Bradford J. Dye, Jr.
P. O. Box 651
- P. H. Eager, Jr.
P. O. Box 650
- Al D. Eatmon
328 E. South St.
- Barney E. Eaton, III
P. O. Box 942
- Grady Jyles Eaves
Plaza Bldg.
E. Amite Street
- John Arthur Eaves
Plaza Building
- Lynel C. Echols
1231-33 Dep. Cty.
Bank Bldg.
- Richard Mack Edmond-
son
P. O. Box 326
- Allan T. Edwards
707 Plaza Bldg.
- E. Ray Edwards
Box 427
- Joseph B. Elliott
P. O. Box 945
- J. L. Enochs
1035 First Nat'l Bank
Bldg.
- Lura Clark Ethridge
P. O. Box 119
- Judge W. N. Ethridge,
Jr.
Chief Justice, Supreme
Court
New Capitol Bldg.
- Clyde V. Eubanks
P. O. Box 10087
- William D. Evans
202½ W. Capitol
- Robert D. Everitt
P. O. Box 651
- Jack H. Ewing
P. O. Box 330
- Michael P. Fedorak, Sr.
V.A. Center, Rm.
119-D
1500 E. Woodrow
Wilson Ave.
- Bethel Ferguson
Mississippi Power &
Light
- Grey Flowers
Box 2022
- Henry G. Flowers
P. O. Box 609
- Roger Mayo Flynt, Jr.
690 First Natl. Bank
Bldg.
- W. B. Fontaine
1623 Dep. Guaranty
Bank Bldg.
- H. Lanier B. Foote
506 S. President St.
- Aaron L. Ford
609 Plaza Bldg.

- Cecil A. Ford
 Suite 690, First
 Nat'l Bank Bldg.
 Victor J. Ford
 200 Petroleum Bldg.
 John D. Fournet
 P. O. Box 1031
 John H. Fox, III
 Box 1261
 Paul M. Franke, Jr.
 1320 North West St.
 Lawrence J. Franck
 P. O. Drawer 1250
 J. B. Franklin
 P. O. Box 12
 Lawrence C. Franklin
 Box 444
 Kenneth I. Franks
 690 First Nat'l Bank
 Bldg.
 Billy L. Fulgham
 P. O. Box 587
 Gabriel M. Fuqua
 Box 1083
 Louis A. Fuselier
 P. O. Box 2366
 Evelyn Gandy
 727 Arlington Street
 James L. Garner, Jr.
 Box 1084
 Sims Marion Gaston, Jr.
 715 Neering Trail
 Martha Gerald
 Box 158
 James V. Geuder
 1203 Dep. Cty. Bank
 Bldg.
 Walter J. Gex, III
 P. O. Box 1172
 Robert Gatlin Gilder
 P. O. Box 2373
 Don A. Gill
 P. O. Box 4271
 Judge R. G. Gillespie
 Presiding Justice,
 Supreme Court
 New Capitol
 Building
 Robert G. Gillespie, Jr.
 P. O. Box 158
 William F. Goodman
 P. O. Box 650
 Weaver E. Gore, Jr.
 Box 186
 John D. Courlay, Jr.
 1016 Robinson St.
 Apt. 219
 Robert S. Graham
 Box 1841
 Brelon E. Grantham, Jr.
 Box 1773
 R. Gordon Grantham
 P. O. Box 119
- Charles L. Graves
 185 Thompson Street
 Elizabeth W. Grayson
 P. O. Box 650
 Garner W. Green
 Box 1666
 Garner W. Green, Jr.
 Box 1666
 Joshua Green
 Box 1666
 William A. Grist
 P. O. Box 8084
 John M. Grower
 Box 119
 Judge Carl E. Guernsey
 Room 215, Courthouse
 Claude W. Guice
 4313 Ridgewood Rd.
 Charles C. Hairston
 Box 1269
 Doric Hakes
 348 Sylvian Trail
 Carsie Hall
 115½ North Farish
 Street
 George S. Hamilton
 305 Dunbar
 Lowell D. Hamilton
 Box 899
 Richard B. Hamilton
 1957 Meadowbrook
 Road
 Robert B. Hamilton
 Box 275
 W. Jeff Hamm
 P. O. Box 97
 B. R. Hardin
 506 S. President St.
 James Elbert Hardin
 4116 Council Circle
 A. Y. Harper
 Standard Life Bldg.
 Box 1545
 Charles Edward Harper
 P. O. Box 727
 Nolan Sidney Harper
 P. O. Box 1791
 Alan H. Harrigill
 Box 2216
 David A. Harris
 1702 Devine Street
 William R. Harris
 1615 Pine Ridge Place
 Newt P. Harrison
 Box 119
 Robert W. Hartford
 P. O. Box 2247
 Joseph C. Hartley, Jr.
 2425 Harriotte Ave.
 Robert E. Hauberg
 Box 2091
 Ben Hawkins
 Box 4714
- George Wm. Haynes
 Box 686
 Hobart Hector, Jr.
 P. O. Box 2366
 Jay Homer Hedgepeth
 Box 1467
 T. H. Hedgepeth
 Box 1467
 Cecil F. Heidelberg, Jr.
 690 First Nat'l Bank
 Bldg.
 Judge Leon F. Hendrick
 Box 1473
 Charles B. Henley
 P. O. Box 326
 C. G. Herring
 707 Launcelot Drive
 Byron T. Hetrick
 Box 1818
 George P. Hewes, III
 P. O. Box 119
 J. T. Hill
 1363 Belvoir
 Joe W. Hobbs
 P. O. Box 650
 David E. Holderfield
 P. O. Box 5541
 Clarence H. Holland
 1605 Linden Place
 Edwin R. Holmes, Jr.
 Box 2091
 Richard B. Holmes
 P. O. Box 1954
 Seeb E. Holmes
 506 S. President St.
 Alben Norris Hopkins
 P. O. Box 1084
 Hugh S. Hopkins
 P. O. Box 1145
 Calvin A. Hopper, Jr.
 955 Park Lane
 Frank C. Horton
 Box 1084
 Judge W. T. Horton
 1001 Monroe St.
 James R. Houston
 P. O. Box 945
 Joe L. Howell, Jr.
 2006 London Avenue
 Homer Lee Howie
 161 E. Pearl St.
 Joseph H. Howie
 Box 724
 Theodore G. Huffman
 1322 Hazel Street
 Charles E. Hughes
 P. O. Box 25
 Joe Jack Hurst
 Lamar Bldg.
 Box 158
 H. L. Hutcherson
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- Cecil E. Inman, Jr.
316 First Nat'l Bank
Bldg.
Judge William H. Inzer
Asso. Justice, Supreme
Court
New Capitol
Forrest B. Jackson
Box 124
Jane F. Johnson
Box 158
Larry L. Johnson
1510 North State St.
Otis Johnson, Jr.
690 First Nat'l Bank
Bldg.
Governor Paul B. Johnson, Jr.
State of Mississippi
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Building
Willis Howard Johnson, Sr.
3129 Adrienne Drive
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Paul Tudor Jones, V
P. O. Box 1467
P. Z. Jones, Jr.
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Box 1666
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William T. Jones
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John T. Kabbes
P. O. Box 1818
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W. Van Kees, Jr.
P. O. Box 1200
James E. Kemp
Box 651
Henry M. Kendall
Box 330
W. D. Kendall
Suite 615, Barnett
Bldg.
Earl Keyes
P. O. Box 2366
Frank C. Kimbrell
Bright's Shopping
Center
Robert W. King
P. O. Box 381
Curtis G. Kirby, Jr.
P. O. Box 1568
James D. Kirby
Illinois Central Rail-
road
Lee C. Kirk
5964 Westmore Drive
Atley A. Kitchings, Jr.
P. O. Box 811
James P. Knight, Jr.
P. O. Box 161
Sam Dove Knowlton, II
P. O. Box 157
John Kuykendall
P. O. Box 961
Raymond L. Laakso
5913 Whitehill Drive
Don Preston Lacy
127 Barnes Street
Ernest Edward Laird, Jr.
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John Stevenson Lancaster
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Roger C. Landrum
P. O. Drawer 1250
Andrew M. Landry
308 Houston Ave.
Thomas F. Larche, Sr.
P. O. Box 4253
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4680 Londonderry
Drive
Dan M. Lee
Suite 200, Petroleum
Bldg.
Robert M. Lee
136 E. Griffith
Larry L. Lenoir
1023 Brairfield Road
M. A. Lewis, Jr.
P. O. Box 1353
Thomas G. Lilly
Wise, Smith & Carter
918 Electric Bldg.
Hubert S. Lipscomb
P. O. Box 2337
W. Baldwin Lloyd
901 First Nat'l Bank
Bldg.
Edward P. Lobrano, Jr.
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Clara C. Long
Box 1528
Glenn M. Longino
829 Arlington St.
Fred J. Lotterhos
P. O. Box 2292
G. Lowery Lucas
P. O. Drawer 2428
Jack H. Lucas
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Box 427
G. Garland Lyell, Jr.
Box 220
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U. S. Postoffice &
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P. O. Box 2813
Otho Magee
1942 Wingfield Circle
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218 A & B, Magruder
Bldg.
515 Yazoo St.
Lauch Magruder, Jr.
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Trust Plaza Bldg.
Charles A. Marx
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J. Morton Matrick
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Drive
Rose P. May
540 Woodbury Road
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Charles R. Mayfield, Jr.
P. O. Box 2192
Robert Travis McAdory
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B. B. McClendon
903 Dep. Guar. Bank
Bldg.
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Bldg.
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A. B. McCraw
1922 Belvedere Drive

- Dan M. McCullen
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 John L. McDavid
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 Judge M. M. McGowan
 Circuit Court
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 M. Curtiss McKee
 P. O. Box 157
 Alex McKeigney
 Box 1640
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 William E. McKinley
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 New Capitol
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 C. Eugene McRoberts
 P.O. Drawer 1250
 George D. Meek
 619 Mohawk Ave.
 George Oliver Miles
 1941 Central Street
 Harold D. Miller, Jr.
 P. O. Drawer 1250
 Richard Louis Miller
 P. O. Drawer 2428
 Claude Milstead
 1305 Woodcrest Drive
 Cecil M. Mitchell
 P. O. Box 918
 Milton H. Mitchell
 P. O. Box 2216
 Donald L. Moak
 P. O. Box 1200
 W. W. Moffett, Jr.
 P. O. Box 3320, W.J.S.
 E. W. Montgomery, II
 Box 724
 Hugh C. Montgomery, Jr.
 1801 Deposit Guaranty
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 Malcolm B. Montgomery
 P. O. Box 1288
 E. Don Moore
 Box 10087 Northside
 Station
 Judge Russel D. Moore,
 III
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- William S. Moore
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 Bldg.
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 P. O. Box 961
 Dan W. Morse
 604 Bankers Trust
 Plaza Bldg.
 W. E. Morse
 601 Bankers Trust
 Plaza Bldg.
 Henry H. Mounger
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 1746 Hillview Drive
 Thomas Earl Mullen
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 P. O. Box 5767
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 3902 West Capitol St.
 George S. Neal, Jr.
 Box 945
 James Harvey Neeld, III
 Box 1261
 William H. Neely
 P. O. Box 78
 William T. Neely
 P. O. Box 17
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 4272 Forest Park Drive
 Hugo Newcomb
 Assistant Attorney-
 General
 New Capitol Bldg.
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 328—First Nat'l Bank
 Bldg.
 Robert G. Nichols, Jr.
 Box 1526
 Wayne L. Nix
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 George R. Nobles
 Standard Life Bldg.
 John Thomas Noblin
 Suite 690, First Natl.
 Bank Bldg.
 Junior O'Mara
 P. O. Drawer 1250
 John Mack Osborne, Jr.
 P. O. Box 17
 N. W. Overstreet, Jr.
 P. O. Box 961
 Harry D. Owen
 P. O. Box 2599
 George Earl Parker
 P. O. Box 1172
 Maxene S. Paschal
 337 Springfield Circle
 Judge J. Neville Patterson
 Associate Justice,
 Supreme Court
 New Capitol
 Building
- Joe T. Patterson
 Attorney General
 New Capitol
 W. R. Patterson
 Woodmen of the
 World Bldg.
 218 S. President
 St.
 Thomas B. Payne
 P. O. Box 1947
 Dudley Pearce
 5565 Queen Mary
 Lane
 Charles Pendleton
 Box 584
 Kenneth Giles Perry
 Box 1172
 Robert E. Perry
 Box 961
 James Brady Persons
 4326 Robin Drive
 Edward Joslyn Peters
 829 Dep. Gty.
 Bank Bldg.
 M. J. Peterson
 Box 4547
 Ellen Louise Pfister
 808 George Street
 Rubel L. Phillips
 Box 961
 James A. Phyfer
 518 E. Pascagoula St.
 W. W. Pierce
 Box 1261
 Bob W. Pittman, Director
 Merit Community
 Program
 P. O. Box 1849
 Gilbert Bailey Powell
 P. O. Box 1817
 Roy D. Powell
 P. O. Box 381
 Thomas W. Prewitt
 P. O. Drawer 1250
 John R. Poole
 214 Plaza Building
 John H. Price, Jr.
 P. O. Box 1467
 Victor B. Pringle, Jr.
 3895 Northview, A-5
 Robert A. Pritchard
 P. O. Box 1261
 Ralph D. Pruett, Jr.
 237 Maywood
 Fred H. Purser, Jr.
 Suite 5, 413 S.
 President St.
 John M. Putnam
 P. O. Box 2075
 L. Arnold Pyle
 Box 427
 Dixon Pyles
 507½ E. Pearl

- John D. Quarles, Jr.
935 Branch Street
Robert D. Ray
Suite 200,
Petroleum Bldg.
Woodrow W. Reagan
Suite 203, Barnett
Bldg.
W. C. Reed, Jr.
701 Vincent Bldg.
Julius T. Reynolds, Jr.
738 Witsell Road
John Sivley Rhodes
831 N. President St.
Bernard L. Riddick
145 Catalina Circle
C. R. Ridgway
Box 187
Louis E. Ridgway, Jr.
P. O. Box 187
William B. Ridgway
Box 187
J. K. Riley
403 Barnett Bldg.
A. H. Ritter, Jr.
P. O. Box 1200
Jack L. Ritter
P. O. Box 701
John M. Roach
P. O. Box 1084
W. E. Robbins
196 Kolb St.
Box 1831
J. A. Robertson, Jr.
Route 5, Box 67
Sidney A. Robinson, Jr.
Box 920
Frank A. Robertson
P. O. Box 2366
Judge Stokes V.
Robertson, Jr.
Asso. Justice, Supreme
Court
New Capitol
Bldg.
Stuart Robinson
P. O. Box 2216
Judge Henry Lee
Rodgers
Associate Justice
New Capitol
Joe B. Rogers
P. O. Box 205
Shelby R. Rogers
P. O. Box 650
Harry Jonas Rosenthal
3923 Old Brandon
Road
L. H. Rosenthal
406 W. Capitol St.
Fred A. Ross
Box 1669
Howard C. Ross, Jr.
Ross—Jackson Bldg.
South at Congress
St.
Abe A. Rotwein
P. O. Box 784
Fred T. Rucker, III
P. O. Box 1176
Roderick S. Russ, Jr.
1411-13 Standard
Life Bldg.
Glenn Marion Russum
1523 Belmont St.
David Sadler
Box 9634,
Northside Sta.
Natale A. Salvo
P. O. Box 4593
L. F. Sams, Jr.
Box 1084
Thomas W. Sanford
P. O. Box 381
Charles William
Satterfield
5383 Keele
Clarence R. Scales
1107 Deposit Guaranty
Bank Bldg.
Box 1176
Jewelle Scales
202½ W. Capitol
Pat H. Scanlon
1540 Dep. Gty. Bank
Bldg.
E. G. Scott
1st Fed. Svgs. &
Loan Bldg.
Box 1818
Frank T. Scott
729 Fairview Street
Sam E. Scott
690 First Nat'l Bank
Bldg.
Tom B. Scott, Jr.
P. O. Box 1818
William F. Selph, Jr.
P. O. Box 25
Dugas Shands
Assistant Attorney
General
New Capitol
John A. Shanks
4635 Hazlewood Drive
George E. Shaw, Jr.
P. O. Box 289
Dan H. Shell
Box 1172
Ernest L. Shelton
712 Plaza Bldg.
John William Shelton
712 Plaza Bldg.
Leon Shelton
221 North President
Street
N. R. Shoemaker
P. O. Box 1954
Walter L. Shows
P. O. Box 2355
J. E. Skinner
Deposit Guaranty
Bank Bldg.
Bennett E. Smith
Public Service Commn.
1105 Woolfolk
Bldg.
Conner D. Smith
Suite 414, 236
E. Capitol St.
Jerome David Smith
P. O. Box 427
John T. Smith
1722 St. Mary St.
Judge L. A. Smith, Jr.
Associate Justice,
Supreme Court
New Capitol
Building
L. O. Smith, Jr.
Bankers Trust Plaza
Bldg.
P. O. Box 15
Neal Smith
Box 1524
Stone M. Smith
P. O. Box 1729
William C. Smith
P. O. Drawer 2428
Lee R. Spence
Suite 510,
Morgan Bldg.
Ernest O. Spencer, Jr.
P. O. Box 328
James L. Spencer
523 Plaza Bldg.
Richard L. Spruill
206 Vincent Bldg.
Tatum R. Stacey
Box 431
R. L. Stainton
Box 4391
Herbert Glenn Stampley
3107 Shirley Drive
Percy Stanfield, Jr.
615 Bankers Trust
Plaza Bldg.
R. Horace Steele
P. O. Box 1200
Jerome B. Steen
P. O. Box 2337
E. W. Stennett
Post Office Box 17
Judge J. C. Stennett
P. O. Box 686
John H. Stennis
Box 427
Hubert D. Stephens, III
P. O. Drawer 119

- Lowell F. Stephens
 Box 1200
 Francis B. Stevens
 P. O. Drawer 1250
 Phineas Stevens
 P. O. Drawer 1250
 Peter M. Stockett, Jr.
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 New Capitol
 Clay Marler Stone
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 John E. Stone
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 R. B. Stovall
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 E. Donald Strange
 c/o U.S. District
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 Road
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 Rt. 5, Box 62
 Terry Road
 Quentin Stringer
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 P. O. Box 650
 Charles M. Sudduth
 4104 Del Rosa Drive
 C. Arthur Sullivan
 P. O. Box 2366
 George T. Sullivan
 P. O. Box 1568
 John C. Sullivan
 P. O. Box 2366
 John C. Sullivan, Jr.
 P. O. Box 2366
 A. F. Summer
 P. O. Box 587
 Valentine Surgis
 Box 17
 Kenneth L. Swarthout
 200 Petroleum Bldg.
 Thomas M. Tann
 Box 1505
 Anthony A. Tattis
 Box 235
 O. B. Taylor, Jr.
 P. O. Drawer 2428
 Rowan H. Taylor
 P. O. Drawer 2428
 Swep S. Taylor, Jr.
 P. O. Box 912
 Scott Tennyson
 690 First Nat'l Bank
 Bldg.
 E. Grant Tharpe
 P. O. Box 673
 Sidney R. Tharp
 114½ N. Farish Street
 Earl T. Thomas
 P. O. Box 158
 Melvin M. Thomas, Jr.
 P. O. Box 822
 Allen C. Thompson
 City Hall
 Fulton Thompson
 P. O. Box 410
 R. Fulton Thompson
 P. O. Box 410
 Robert H. Thompson
 P. O. Box 410
 Collis M. Thornell
 Apt. R 2
 1315 West Capitol
 St.
 W. A. Thornton
 511 Bankers Trust
 Plaza Bldg.
 Bernard L. Tighe
 416 Plaza Bldg.
 Bowman Stirling Tighe
 416 Plaza Bldg.
 John E. Tracy
 P. O. Box 5025
 Fondren Station
 R. C. Trainor
 P. O. Box 4973
 Cecil F. Travis
 Box 995
 John A. Travis, Jr.
 Box 807
 Loyd Kelley Travis
 P. O. Box 807
 Robert C. Travis
 P. O. Box 157
 John B. Traylor
 P. O. Box 5005
 Betty Bartee Tucker
 507½ E. Pearl St.
 Eddie Howard Tucker
 115½ N. Farish Street
 James B. Tucker
 374 Rollingwood Drive
 Felix Underwood, Jr.
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 Lynn Douglas Wade
 218 S. President St.
 Guy M. Binx Walker
 236 East Capitol
 James A. Wallace
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 Box 427
 Thomas H. Watkins
 P. O. Box 650
 Walker L. Watters
 Box 158
 Robert H. Weaver
 P. O. Box 427
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 Box 158
 Erskine W. Wells
 Lamar Life Bldg.
 Box 158
 W. Calvin Wells, Jr.
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 Box 158
 W. Calvin Wells, III
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 John M. Weston
 Box 1818
 Charles Royal White
 107 Electric Bldg.
 John Harold White, Jr.
 107 Electric Bldg.
 Thomas E. White
 Apt. 111, Sterling
 Towers
 Hassell Hendon
 Whitworth
 P. O. Box 650
 Samuel H. Wilkins
 P. O. Box 1467
 Gene A. Wilkinson
 P. O. Box 673
 Michael C. Wilkinson
 P. O. Box 4932,
 Fondren Sta.
 Frank T. Williams
 Box 1172
 James Lloyd Williams
 1275 Petroleum Bldg.
 Earl R. Wilson
 901 First Nat'l Bank
 Bldg.

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Box 8487
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Jr.
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Marion Ray Windham
1051 W. McDowell
Rd.
William F. Winter
State Treasurer
P. O. Box 138
Sherwood W. Wise
Box 157
Edward L. Womack
P. O. Drawer 2428
W. Wayne Wood
5952 Waverly Drive
George F. Woodliff
690 First Nat'l Bank
Bldg.
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4929 Clinton Blvd.
Charles S. Wright
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Bldg.
Marian Elizabeth Wright
538½ N. Farish St.
L. A. Wyatt
1505 Standard Life
Bldg.
W. Swan Yerger
690 First Nat'l Bank
Bldg.
Jack H. Young
207 Redmond Bldg.
115½ N. Farish St.
James Leon Young
1540 Dep. Cty.
Bank Bldg.
J. Will Young
1540 Dep. Cty.
Bank Bldg.
Frank M. Youngblood
309 Barnett Bldg.
Thomas Lee Zebert
404 N. Biederman
Road—Pearl

JONESTOWN

George H. Rather

KOSCIUSKO

John Percy Allen
300 N. Jackson St.
William D. Brooks
105-07 S. Madison St.
David E. Crawley, Jr.
Crawley Bldg.
William Reynolds Ford
Crawley Bldg.
D. H. Glass
P. O. Box 746
John D. Guyton
105-07 S. Madison St.

Chatwin M. Jackson, Jr.
Box 189
John C. Love, Jr.
P. O. Box 527
John C. Love, Sr.
P. O. Box 527
Alton Massey
Box 189
Ray S. Mikell
P. O. Box 249
Clarence E. Morgan, Jr.
Box 348
G. J. Thornton
Morgan & Lindsay
Bldg.
Harold W. Williams
517 Lucas St.
Claude Jackson
Woodward
Doty Bldg.

KREOLE

Pat Harrison Watts, Jr.

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Hoke Stone
Van D. Stone

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William S. Boyd, Jr.
Box 726
H. Harvey Breazeale
2018 Briarwood Drive
Ronald C. Brown
Box 171
Kenneth E. Bullock
P. O. Box 692
Lampkin H. Butts
P. O. Box 153
John A. Bruce Caldwell
P. O. Box 726
J. Edwin Campbell
Box 584
Judge Lunsford Casey
P. O. Box 185
Fledell Chain
48 Oakcrest Drive
Thomas Gene Clark
P. O. Box 731

Elson K. Collins
Box 732
F. B. Collins
Box 31
Edwin P. Connolly
P. O. Box 525
Henry S. Davis, Jr.
P. O. Box 1137
William M. Deavours
P. O. Box 106
W. O. Dillard
P. O. Box 41
Billy Carroll Doggette
605—16th St.
Grover C. Doggette
605—16th St.
Carl Dexter Ford
1411 First Avenue
Lt. Gov. Carroll Gartin
P. O. Box 713
C. Denton Gibbes, Jr.
Box 2008,
Choctaw Sta.
Stewart J. Gilchrist
P. O. Box 106
Ernest W. Graves
Box 2008,
Choctaw Sta.
Matthew Harper, Jr.
P. O. Box 726
James D. Hester
Box 713
Thomas J. Holifield
Box 726
W. Major Holifield
P. O. Box 901
Robert E. Husband
P. O. Box 542
John Leonard Jeffries
406—8th Street
Harry E. Koch
P. O. Box 2455
Charles J. May, III
404½ N. Magnolia St.
George D. Maxey
P. O. Box 731
Alpheus Holland McRae,
Jr.
P. O. Box 664
Harold W. Melvin
Box 142
Leonard B. Melvin, Jr.
Box 142
Leonard B. Melvin, Sr.
Box 142
Goode Montgomery, Jr.
P. O. Drawer 5
H. C. Moynihan
P. O. Box 222
William S. Mullins, III
P. O. Box 2008,
Choctaw Sta.
William Harold Odom
Box 354

L. A. Pacific
P. O. Box 1860
Samuel V. Pack
P. O. Box 368
Charles W. Pickering
P. O. Box 713
L. Percy Quinn
P. O. Box 1085
Kalford C. Ratcliff
P. O. Box 368
Charles G. Reeder
c/o Central Oil Co.
Robert L. Ridley
Box 844
Quitman Ross
P. O. Box 464
Harold James Schneider
P. O. Box 852
A. S. Scott, Sr.
P. O. Box 647
Andrew S. Scott, Jr.
Box 403
Philip E. Stevens
Box 434
Robert Sullivan
P. O. Box 1131
William B. Sullivan
P. O. Box 41
Paul G. Swartzfager
Box 121
Philip M. Swartzfager
Box 121
Raymond C. Swartzfager
P. O. Box 65
Raymond C. Swartzfager,
Jr.
P. O. Box 65
Dan C. Taylor
Route 1
Lowell W. Tew
Box 732
C. H. Walker
Box 762
Guy M. Walker
P. O. Box 41
Milton B. Weems
Box 106
David C. Welch
Box 2156
Raynold Lee Willett
10-11 O'Ferrall Bldg.

LEAKESVILLE

Curtis Breland
P. O. Box 154
T. Horton Hillman
Box 555

LELAND

William B. Waits
P. O. Box 128
Taylor Webb
P. O. Box 109

LEXINGTON

Pat M. Barrett
P. O. Box 447
Joseph E. Berman
P. O. Box 299
James Robert Gilfoy, IV
311 Carrollton St.
H. H. Johnson
104 College
P. P. Lindholm
P. O. Box 5
G. H. McMorrough
D. T. Ruff
William E. Thurmond, Jr.
210 North St.
H. Edwin White
208 Court Square

LIBERTY

T. F. Badon
P. O. Box 21
Mary Jo Poole Forman
P. O. Drawer L
Joe D. Gordon
P. O. Box 268
Joseph D. Gordon, Jr.
P. O. Box 268
Kenneth Gordon
Box 373
F. W. Stratton
P. O. Box D

LITTLE ROCK

John Adam Smith
Route 2, Box 4

LONG BEACH

William R. Boggs
630 West Beach
Albert E. Easterling, Jr.
409 East 2nd Street

LOUISVILLE

R. W. Boydston
Box 560
R. W. Boydston, Jr.
Box 342
Frank M. Deramus
Box 31
Charles D. Fair
P. O. Box 509
J. Hoy Hathorn
Masonic Bldg.
James Cal Mayo
P. O. Box 509
Edward C. Prisock
Masonic Bldg.
Neal Prisock
Masonic Bldg.
Burris Olen Smith
P. O. Box 31

LUCEDALE

William Thames Bailey
P. O. Box 493
H. M. Hunter
Route 1
Maurice L. Malone
P. O. Box 208
Darryl A. Hurt
P. O. Box 45
Judge Darwin M. Maples
J. O. Moss
P. O. Box 572
Williams S. Murphy

LUMBERTON

Michael Ray Eubanks
Bobby J. Garraway
Box 335
Joseph H. Montgomery

MACON

E. H. Britton
Ernest L. Brown
Leroy R. Kennedy
Jefferson St.
W. B. Lucas
L. L. Martin
Jesse P. Stennis
Jefferson St.
Andrew W. Sullivan, Jr.
1019 Wayne Street

MADISON

H. S. Owens
P. O. Box 7

MAGEE

T. M. Bishop
Box 623
L. R. Floyd
R.F.D. 2, Box 122
Willis T. Matthews
Box 932
Billy H. Stephens
P. O. Box 218
Aleita M. Sullivan
Box 932

MAGNOLIA

Thad Leggett, III
Box 307
O. W. Phillips
225 East Bay St.
Robert S. Reeves
Box 508
B. D. Statham
110 North Cherry St.

MARKS

Ben M. Caldwell
P. O. Box 370
Partee L. Denton
P. O. Box 330

Ney M. Gore, Jr.
P. O. Box 330
T. N. Gore
Lomax Lamb, Jr.
Eugene Thompson
P. O. Box 66
James P. Walker, Jr.

MATHISTON

Will P. Starnes
P. O. Box 33

McCOMB

Louis Alford
P. O. Box 489
Robert W. Brumfield
P. O. Box 998
John B. Ewing
P. O. Box 428
Norman B. Gillis, Jr.
P. O. Drawer G
William S. Guy
Morgan & Lindsay
Bldg.
P. O. Box 853
Judge Bert H. Jones
L. S. McClaren
P. O. Box 201
Gerald M. McMillan
P. O. Box 73
Joe N. Pigott
Box 940
R. B. Reeves
P. O. Box 998
J. Gordon Roach
Brent Bldg.
John Gordon Roach, Jr.
P. O. Box 506
Holt Ross
315 Virginia Ave.
Judge Hansford L.
Simmons
Laverne A. Varnado
P. O. Box 959
John H. White, Jr.
P. O. Box 672
Winton Edwin Williams
P. O. Box 205
William A. Wiltshire
P. O. Drawer 527

MEADVILLE

L. L. Forman
K. Maxwell Graves, Jr.
P. O. Box 361
Charles Herring
Box 265
W. Wilson Hewitt
Nolan M. McCoy
Box 265
H. B. Mayes McGehee
P. O. Box 188

Judge James A. Torrey
James A. Torrey, Jr.
P. O. Box 188
Sanferd P. Torrey

MENDENHALL

Thomas B. Alexander
Ras Milton Boyles
P. O. Box 576
A. K. Edwards
Box 66
George B. Grubbs
Box 217
Isom C. Harrington
P. O. Box 181
James Dent May
P. O. Box 24
Philip Purifoy
P. O. Box 193
Thomas H. Sullivan, Jr.
Box 37
J. W. Walker
Box 37
Connie S. Whitfield
Box 458
George G. Williamson
Box 687

MERIDIAN

J. P. Abston
207-09 Lamar Bldg.
Box 1952
Gerald Adams
Box 849
Brad B. Bailey
2314—17th Street
L. D. Beard
207-09 Lamar Bldg.
Thomas D. Bourdeaux
Box 2009
Albert S. Bozeman
304 Lamar Bldg.
A. S. Bozeman, Jr.
First Savings Building
Maxie Gene Brown
P. O. Box 305
Frank J. Buchanan
U.S.F. & C. Bldg.
Paul M. Busby
216 Lamar Bldg.
Joe G. Byrd
2810—7th Street
Apt. #8
Overton W. Cameron
Box 888
Edwin K. Clayton
3523—31st Avenue
W. L. Clayton
1513—25th Street
Robert D. Coit
P. O. Box 424
William Bond Compton
Box 845

Alfred E. Corey
P. O. Box 1413
Lyle V. Corey
Box 1413
J. Michael Corrigan, Jr.
P. O. Box 1362
Oliver Wendell Cosey
P. O. Box 643
Billy R. Covington
1210 Greater Miss.
Life Bldg.
J. A. Covington
P. O. Box 786
Dal M. Crenshaw
2nd Flr., Meridian
Bldg. & Loan Bldg.
Robert H. Crook
Box 289
Robert B. Deen, Jr.
Box 888
Judge Aubert C. Dunn
Box 1745
Edwin A. Dunn
P. O. Box 1745
J. Thomas Dunn
Box 1087
Cecil S. Edmundson, Jr.
P. O. Box 3125
Walter W. Eppes, Jr.
2nd Flr., Meridian
Bldg. & Loan Bldg.
George M. Ethridge, Jr.
P. O. Box 2009
J. C. Floyd
Box 888
G. Rayner Gaillard
816—21st Avenue
Champ C. Gipson
Box 804
J. Ray Gipson
P. O. Box 442
J. V. Gipson
Box 804
Hampton Wingfield
Glover, Jr.
P. O. Box 965
Thomas L. Goldman
Box 1625
Dennis G. Goldman
Box 1625
William J. Gunn, Jr.
2nd Flr., Meridian
Bldg. & Loan Bldg.
Joe Clay Hamilton
910 Greater Miss.
Life Bldg.
John M. Harmon
P. O. Box 1443
Robert Hunter Harmon
P. O. Box 5028
Judge J. Emerson
Harwell

Thomas M. Hendricks,
Jr.
P. O. Box 1501
Joseph L. Herring
Double J Ranch
Route 3, Box 331
Thomas K. Holyfield
P. O. Box 1928
J. Knox Huff, Jr.
2nd Flr., Meridian
Bldg. & Loan Bldg.
Philip D. Hughes
Box 1468
Alvis C. Johnson
Box 824
Granville Jones
Box 1562
S. B. T. Jones
Box 711
Thomas R. Jones, Jr.
P. O. Box 2009
Maurice F. Kahlmus
Box 1402
Betty Jane Long
917 Greater Miss.
Life Bldg.
Irvin L. Martin, Jr.
P. O. Box 1047
Allen Henderson
McCreight
3311—21st Street
E. L. McDonald
2741 Fortieth Street
G. Thomas McPherson
P. O. Box 845
Thomas Y. Minniece
P. O. Box 2009
S. R. Nettles
218 Lamar Bldg.
Judge William DeB.
Neville
P. O. Box 908
Joe R. Odom
P. O. Box 607
Howard R. Pigford
P. O. Box 1501
Claude L. Pitts
300 Rosenbaum Bldg.
John Leslie Prichard
P. O. Box 888
Thomas Jefferson Prince,
Jr.
Trust Dept.,
Citizens Nat'l Bank
Lawrence W. Rabb
Box 2142
Harvey Blanton Ray
Box 5633
Donovan Ready, Jr.
629—25th Ave.
P. O. Box 1550
William E. Ready
P. O. 927

Fred M. Rogers
1823—34th St.
Margaret E. Rogers
2612—19th Street
Daniel P. Self, Jr.
Box 1625
C. D. Shields
P. O. Box 367
James Taylor Singley
Box 1087
Daniel Briggs Smith, Jr.
916—26th Ave.
E. L. Snow
Box 786
Frances M. St. Germain
P. O. Box 5733
DeQuincy V. Sutton
Greater Miss.
Life Bldg.
W. Arlo Temple
Box 786
Robert L. Tinsley, Jr.
Box 1327
J. M. Travis
Box 682
Thomas R. Ward
P. O. Box 3125
George D. Warner, Jr.
Box 5633
Homer C. Watkins
Box 1952
Thomas K. Watts
Box 786
J. C. Wilbourn
Box 1389
Richard E. Wilbourn, II
P. O. Box 965
J. Pat Wiley
Box 504
James D. Williams
Box 1389
Marvin Williams
2nd Flr., Meridian
Bldg. & Loan Bldg.
Donald W. Williamson
P. O. Box 425
Donald W. Williamson,
Jr.
414 Lamar Building
James E. Williamson, Jr.
P. O. Box 804
Lester F. Williamson
P. O. Box 1501
N. S. Williamson
Box 86
L. E. Wills
Box 566
Gibson B. Witherspoon
Box 845
Henry S. Woodall
Box 11
MISSISSIPPI CITY
Lt. Col. Carl B. Prestin
2304 Farrell Blvd.

MONTICELLO

Cary Bass, Jr.
Box 626
James Shelby George
Jack A. Morris
P. O. Drawer C
J. P. Patterson
Judge E. A. Turnage
Robert Glenn Turnage
Box 325
Francis M. Vining
Clinton Bldg.
Ben H. Walley
Old Bank Bldg.
Green Street

MOORHEAD

Ben Himelstein

MORGAN CITY

Travis Harmon Clark,
Jr.

MORTON

Charles G. Clifford
Dannye L. Hunter
Box 195
Alfred G. Nicols, Jr.
P. O. Box 175

MOSS POINT

Charles B. Bratt
2nd Flr., 617 Main St.
Louis Fondren
617 Main Street
Frank J. Hammond, Jr.
Box 356
Robert T. Mills
P. O. Box 356

NATCHEZ

Lawrence Adams
P. O. Box 1377
Basil C. Ballard
P. O. Box 551
Edwin E. Benoist, Jr.
Drawer 1197
Judge Robert A. Bonds,
Jr.
508 Main St.
David C. Bramlette
P. O. Box 1377
J. M. Brandon
P. O. Drawer 1197
J. Walter Brown, Jr.
133 South Commerce
Street
B. C. Callon
Box 1314
Carl A. Chadwick
Adams Bldg.
Box 225
Judge Curtis L. Collins

E. H. Fitzpatrick, Jr.
Box 226
Brent Forman
Box 1377
W. A. Geisenberger
Suite 7, Fry Bldg.
Wilfred Wyatt
Geisenberger
30 Oakhurst Drive
John T. Green
P. O. Box 222
Thomas K. Green, Jr.
Box 262
Lucien C. Gwin
Lomond Bldg.,
319 Market St.
Lucien C. Gwin, Jr.
Box 375
G. Stuart Handy
P. O. Drawer 1197
Graham H. Hicks
City Bank & Trust
Co. Bldg.
Box 364
O. M. Hornsby
Drawer 1197
Eunice V. Johnson
P. O. Box 174
Forrest A. Johnson
P. O. Box 174
James H. Keyer
Lomond Bldg.
Robert Dale Lee
P. O. Box 25
Hugh Lumpkin
Miss. Valley Gas Co.
P. O. Box 1354
Anabel Y. Maxie
3611 Laurel Ave.
Thomas M. McNeely, Jr.
508 Main Street
John Ulrich Miller, III
804 N. Union
Paul Montgomery, Jr.
P. O. Box 738
John Ernest Mulhearn
P. O. Box 251
John Ernest Mulhearn,
Jr.
Box 251
Clyde W. Mullins
P. O. Box 25
Robert L. Netterville
Box 946
Daniel J. O'Beirne
P. O. Drawer 1197
Thomas Joseph O'Beirne
138 Homochitto Street
C. F. Patterson
Box 92
Claude Pintard, Jr.
P. O. Box 1335
Jack E. Pool
P. O. Box 1184

William F. Riley
P. O. Box 174
J. Fred Schmidt, Jr.
Box 947
Samuel B. Serio, Jr.
221 Linton Avenue
Cecil Gill Smith, Jr.
Box 702
William Marion Smith
Box 1377
John Merritt Tipton
Fry Building
E. G. Truly
Box 1377
Frank W. Walden
P. O. Box 345
Edwin C. Ward
Box 1377
Calvin B. Wells
Fry Bldg.
Robert Y. Wood, Jr.
Box 1335
Clarence N. Young
Box 300
Joseph S. Zuccaro
Box 1335

NEW ALBANY

J. E. Boone
Box 42
Hugh N. Clayton
Box 157
William G. Collins
603 Glade
Tom Leslie Darden
Norman L. Gillespie
P. O. Box 833
Baxter N. Knox, Jr.
P. O. Box 336
Talmadge D. Littlejohn
Houston Bldg.
Box 833
W. Lester
McDonough
P. O. Box 186
Edgar J. Stephens, Jr.
P. O. Box 330
Lester F. Sumners
P. O. Box 123

NEW AUGUSTA

John M. Dunnam, Jr.
Box 138

NEWTON

A. B. Amis, Jr.
D. M. Anderson
Box 7
W. A. Byrd
102 Byrd St.
R. S. Majure
Box 220
George S. Monroe
Box 28

Edmund J. Phillips, Jr.
P. O. Box 178
S. T. Roebuck
124 South Main St.

NORTH CARROLLTON

J. Crawford Neill
P. O. Box 74
W. C. Neill
Peoples Bank &
Trust Co.

OAKLAND

Pryor S. Bailey, Jr.

OCEAN SPRINGS

Amy Burkett
P. O. Box 596
Judge L. C. Corban
Post Office Box 549
Oscar R. Jordan
914 Washington Ave.
B. Nowlin Keener, Jr.
P. O. Box 705
Russell Moran
P. O. Box 158
Marby R. Penton
206 Washington Ave.
Schuyler Poitevent, Jr.

OKOLONA

H. L. Morrison
Judge Walter M. O'Barr
Box 309
John D. Sibley
Main Street

OXFORD

Vettra Glenn Alderson
Post Office Box 347
Russell Blair
426 S. Lamar
Phillip Davis Bryant
Suite #1, Douglas
Bldg.
Robin O. Cotten
626 Park Drive
Omar Dell Craig
Box 507
Thomas R. Ethridge
P. O. Box 566
W. N. Ethridge
Box 566
Thomas H. Freeland, III
Box 269
Gerald A. Gafford
P. O. Box 269
Lowell E. Grisham
P. O. Box 566
Will A. Hickman
P. O. Box 430
Elmer Leroy Hunt
Box 228

E. Grady Jolly
300 College Hill Road
William Walker Joor
Box 207
William R. Lamb
P. O. Box 349
William Lewis, Jr.
Box 31
Falcon O. Mason, Jr.
P. O. Box 430
Taylor H. McElroy
P. O. Box 187
Raymond L. McGuire
301 Cullen Road
Fred Barringer Patton
518 Tyler Ave.
J. W. Price
307 S. Lamar
H. M. Ray
Box 191
Basil W. Richmond, Jr.
426 South Lamar
Bramlett Roberts
Box 507
R. X. Williams
Lyric Theatre Bldg.
1008-1010 Van
Buren

PARCHMAN

Aaron M. Edwards

PASCAGOULA

M. Glenn Barlow
202 Magnolia St.
P. O. Box 506
Sidney F. Beck, Jr.
P. O. Box 1284
W. E. Belt
P. O. Box 666
Arnold V. Blackwell
10 Verde Drive
James A. Bowlin
P. O. Box 2092
Raymond L. Brown
P. O. Box 787
John F. Bryan, III
P. O. Box 396
French Caldwell
P. O. Box 149
Joe R. Colingo
P. O. Box H
James H. Colmer
P. O. Box 787
Dan Costello
P. O. Box 2248
Arvis Cumbest
P. O. Drawer 1287
Donald W. Cumbest
P. O. Drawer 1287
William B. Dorsey
345 Watts Avenue
Guy C. Faggard
Box 714

Henry A. Fly
P. O. Box 792
Charles W. Ford
P. O. Box 100
Lester C. Franklin, Jr.
P. O. Box 1056
E. M. Galloway
Box 658
Henry Bernard Gautier
Ingalls Avenue
John D. Gautier
P. O. Box 1056
Rex Gordon
P. O. Box 396
George W. Howell, Jr.
P. O. Box 149
Harvey Hutchins
Travel Inn
Albert S. Johnston, III
P. O. Box 1087
William B. Jones
P. O. Box 100
Clinton E. Lockard
P. O. Box 427
Kenneth W. Martin
P. O. Box 1303
O. L. McLeod
P. O. Box 609
Carl A. Megehee
P. O. Box 787
Roland J. Mestayer, Jr.
Suite 404
Pascagoula-Moss
Point Bank Bldg.
Melvin L. Mitchell
P. O. Box 991
B. C. Moore
P. O. Box 1056
Joe A. Moore
P. O. Box 100
Edward S. Nelson
Box 396
Bobby Gene O'Barr
P. O. Drawer 1287
Robert H. Oswald
P. O. Box M
Merle F. Palmer
Box 59
Willard L. Richardson
Box 214
Kenneth Barkley
Robertson
P. O. Box 854
Ernest R. Schroeder
P. O. Box 100
Harold M. Seamen
605—9th Street
Lloyd Y. Sexton
P. O. Box 714
George S. Shaddock
P. O. Drawer 1287
George M. Simmerman
104 South Pascagoula
St.

David A. Stewart, Jr.
P. O. Drawer AA
Jerry O. Terry
Box 396
Judge L. A. Watts
P. O. Box 244
Karl Wiesenburg
Box 26
Edmund A. Wilson
P. O. Box 415

PASS CHRISTIAN

Harold J. De Metz
508 Cedar Ave.
Robert A. DeMetz
744 East Second Street
C. Randall Jones, Jr.
P. O. Box 283

PETAL

Gilbert F. Heinbaugh
Box 261
H. B. Lingle
Box 695

PHILADELPHIA

Herman W. Alford
Citizens Bank Bldg.
J. K. Gillis
Walter Rayford L. Jones
P. O. Box 337
Clayton T. Lewis
P. O. Box 162
William M. Mars
Citizens Bank Bldg.
Wilburn D. Moore
Judge Robert Prisock
Laurel G. Weir
Box 156
W. T. Weir
208-10 Stubbs Bldg.
William G. Yates, Jr.
P. O. Box 54

PICAYUNE

Sam P. Cooper, Jr.
P. O. Box 125
Emile J. Gex, Jr.
620 Stovall Ave.
Charles R. Holladay
P. O. Box 177
Grayson B. Keaton
5-8 Sanders Bldg.
East Canal Street
Stanley E. Munsey
Highway 11, South
Robert (Rip) I.
Prichard, III
P. O. Box 269
Lonnie Smith
P. O. Drawer 1076
L. Jack Stewart
P. O. Box 671

Ray M. Stewart
P. O. Box 269
J. E. Stockstill
203 Picayune Bank
Bldg.
Monroe David Tate, II
121 Second Street
Tate Thigpen
113 East Canal St.
Granville H. Williams
P. O. Drawer 1076
Marguerite A. Williams
Box 3
Robert J. Williams
P. O. Box 29

PONTOTOC

James E. Bost
P. O. Box 148
Jackson D. Doty
First Nat'l Bank Bldg.
J. B. Fontaine
Joe Ray Henderson
P. O. Box 217
Boudie A. Jaggers
P. O. Box 364
Byrd P. Mauldin
512 South Main Street
Kendall C. Rayburn
P. O. Box 124
Charles D. Thomas
First National Bank
Bldg.
Fred Wicker
Box 232

POPLARVILLE

Richard Lloyd Arnold
David R. Smith
P. O. Box 393
Martin T. Smith
P. O. Box 393
Wm. Hampton Stewart
E. B. Williams
Williams Bldg.
E. B. Williams, Jr.
Williams Bldg.
Lampton O. Williams
P. O. Box 113

PORT GIBSON

William H. Barr
Route 2
Joseph Davenport, Jr.
Edwin D. Davis
Box 602
Joseph Turpin Drake
Robert Douglas Gage, III
Box 224
P. M. Watkins
2nd Flr., Person Bldg.
Karl Weil

PRENTISS

Joseph Dale
P. O. Box 518
O. W. Johnson
Drawer C
Donald G. Kruger
P. O. Drawer 11
Floyd P. Smith
P. O. Box 357

PURVIS

— William E. Andrews, Jr. —
Box 92
Elmer A. Canfield
Box 188
Jesse W. Shanks
Box 367

QUITMAN

Robert E. Covington, Jr.
Jeff Carter Bldg.
G. F. Dabbs, Jr.
P. O. Box 371
Billy Ernest Harris
Box 304
Andrew J. Reese, Jr.
Box 231
Tally D. Riddell
Box 199
Charles W. Shepherd
P. O. Box 359
J. E. Shirley
Box 25

RALEIGH

S. W. Craft
Judge Homer Currie
J. B. Hawkins
Box 355
Crymes G. Pittman
Luther David Pittman
O. O. Weathersby
Jerry Lawrence Yeager

RAYMOND

James Hermon Adams
G. Robert Ferguson
P. O. Box 362
Hugh B. Gillespie, Jr.
P. O. Box 146
Andrew John Hannon
Joe G. Moss
Box 144

RICHTON

Louie Frederick Ruffin
P. O. Box 119

RIPLEY

Judge William H.
Anderson
Benton W. Elliott
Robert William Elliott

George W. Floyd, Jr.
H. C. Ladner, Jr.
120 Jefferson
Thomas E. Pegram, Jr.
P. O. Box 26
Marion D. Roten
Box 375
Fred B. Smith
Robert Bruce Smith, III

ROLLING FORK

J. R. Christenberry
Box 353
E. C. Clements
210 Locust Street
W. S. Dickson
506 Walnut Street
Herman C. Glazier, Jr.
Box 368
Albert V. Miller
Box 193
J. Wesley Miller
Box 453

ROSEDALE

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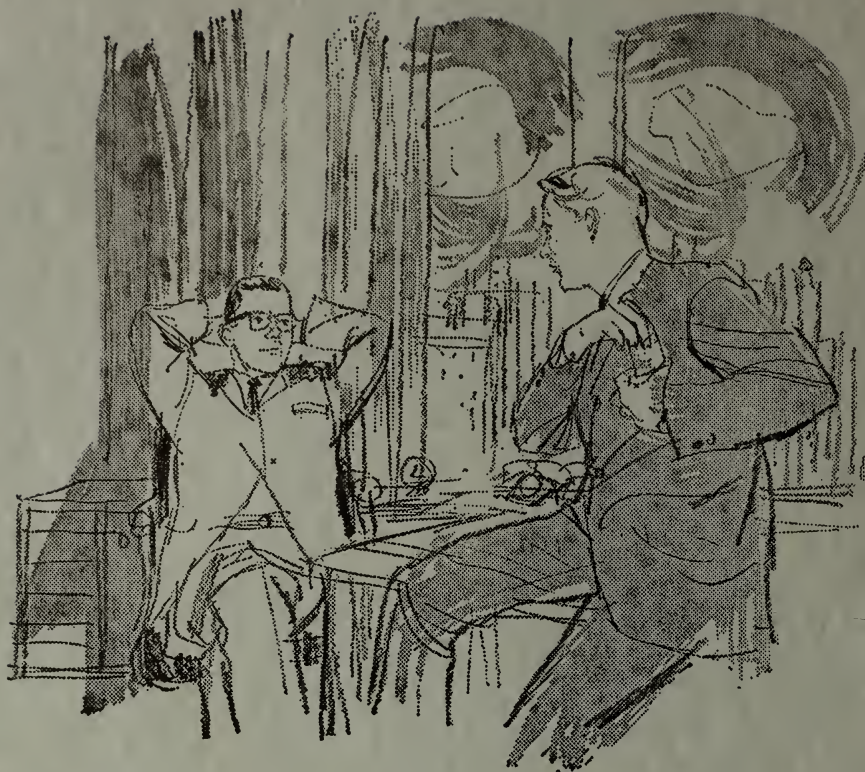
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